

federal register

TUESDAY, NOVEMBER 2, 1976



highlights

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List of Public Laws

NOTE: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's List of PUBLIC LAWS.

AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The six-month trial period ended August 6. The program is being continued on a voluntary basis (see OFR notice, 41 FR 32914, August 6, 1976). The following agencies have agreed to remain in the program:

Monday	Tuesday	Wednesday	Thursday	Friday
NRC	USDA/ASCS		NRC	USDA/ASCS
DOT/COAST GUARD	USDA/APHIS		DOT/COAST GUARD	USDA/APHIS
DOT/NHTSA	USDA/FNS		DOT/NHTSA	USDA/FNS
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DOT/OPSO	LABOR		DOT/OPSO	LABOR
	HEW/FDA			HEW/FDA

Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408.

ATTENTION: For questions, corrections, or requests for information please see the list of telephone numbers appearing on opposite page.

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INFORMATION AND ASSISTANCE

Questions and requests for specific information may be directed to the following numbers. General inquiries may be made by dialing 202-523-5240.

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Weekly Briefings at the Office of the Federal Register

(For Details, See 41 FR 46527, Oct. 21, 1976)

RESERVATIONS: JANET SOREY, 523-5282

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The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each month.

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER C—DRUGS: GENERAL

[Docket No. 76N-0004]

PART 207—REGISTRATION OF PRODUCERS OF DRUGS AND LISTING OF DRUGS IN COMMERCIAL DISTRIBUTION

Revision of Times for Annual Registration

The Food and Drug Administration is amending its drug establishment registration regulations by extending the period during which the annual registration is conducted to permit more orderly processing of registration forms by FDA personnel, effective December 2, 1976.

In a document published in the FEDERAL REGISTER of March 3, 1976 (41 FR 9183), it was proposed that § 207.21 (21 CFR 207.21) be revised to provide that the annual registration be conducted in seven roughly equal segments, one segment during each of the first 7 months of each calendar year. Interested persons were invited to submit comments on the proposal on or before May 3, 1976.

Nineteen comments were received on the proposal: 14 from drug establishments subject to the registration requirements of Part 207 (21 CFR Part 207), 4 from drug establishment trade associations, and 1 from a newspaper association. A summary of the comments on the proposal and the Commissioner of Food and Drugs conclusions regarding them follow:

1. One comment contended that the 10-month period under the current registration requirements, i.e., from January 1 to November 1, provides ample time for FDA to efficiently process and review renewal registrations.

The Commissioner does not agree with this comment. It is the requirement that drug establishments submit annual registrations between November 15 and December 31 of each year that creates the severely unbalanced workload within the agency and places a great burden on FDA resources devoted to processing these forms. The problems experienced by FDA under the current registration procedures involve the physical difficulties resulting from the receipt of thousands of return mailings over a 6-week period, which has resulted in the need to use a large number of temporary employees for a relatively short period of time to sort and process these forms initially, while final processing is conducted by fewer employees over a longer time period. The Commissioner concludes that conducting the renewal registration over

a 7-month period will permit the use of a small permanent staff devoted to this process and will result in increased efficiency in conducting the annual registration.

2. Several comments objected to the proposed requirement that establishments register within 15 days of receipt of registration forms from FDA on the grounds that current regulations provide for 45 days in which drug establishments may register, and the proposal gave no reason for reducing that time period. Other comments objected to the 15-day registration period on the grounds that manufacturers with many registered plants often require individual plants to forward the registration forms to a central office for completion and submission, and some establishments often require that the forms be directed to a specific individual within their organization. Those comments contended the 15-day response period is inadequate to complete the registration process, considering the possibility of delays in routing the materials and the possibility that the responsible establishment official may be unavailable for that period of time. These comments suggested that the final regulation be revised to permit establishments to register within 30 or 45 days of receipt of registration forms from FDA.

On the basis of these comments, the Commissioner is revising the final regulation to require that drug establishments register annually within 30 days of receipt of registration forms. Although he recognizes that many multiplant drug establishments have a central office responsible for submitting registration forms and that the practice of routing the forms to that office may delay their submission, he does not believe that the annual registration of drug establishments requires a significant period of time to complete. The annual registration forms are printed with the information in FDA files obtained from the establishments' previous submissions. Upon receipt of the completed forms the establishments need only fill in any missing data, correct any inaccurate data, sign the forms, and return them to FDA. Furthermore, the time spent in routing registration forms from the establishments to the central office may be avoided, as explained in paragraph 3 below. Accordingly, the Commissioner finds that a 30-day response period is adequate to complete the registration process.

3. Several comments contended that FDA should permit the registrant to designate the address to which FDA will mail the registration forms, e.g., the corporate headquarters for multiplant organizations. Comments also contended

that registrants should be allowed to specify an individual, by name or title, to whom the registration forms are to be sent. One comment observed that FDA requires that comments on notices of proposed rule making be directed to a particular individual, i.e., the Hearing Clerk, and be identified by a docket number so that they are not delayed or misrouted within the agency. The comment contended that corporations, often consisting of numerous registered establishments, also need to specify addresses for particular correspondence to ensure that it is not unnecessarily delayed or misrouted.

The Commissioner concludes that these comments evidence a misunderstanding of the current establishment registration requirements. The drug establishment registration Form FD-2656 currently permits the registrant to specify the mailing address to which future registration forms are to be sent. The registrant may specify the corporate headquarters as its mailing address for each of its registered establishments and may use an administrative code in the mailing address to route the material to a particular office or individual. Accordingly, no change in the final regulation is warranted as a result of these comments.

4. Several comments observed that corporations consisting of numerous registered establishments are currently able to submit the annual registration forms for all their registered establishments during one 6-week period, but under the proposed revision of § 207.21 a large organization may be required to complete up to seven distinct registrations each year, rather than reviewing all their files and completing the registration process at one time. Several comments suggested that an organization consisting of more than one registered establishment be permitted to register all of its establishments either (1) during the period on the proposed schedule that coincides with the address of the general office, (2) during a particular month determined by the organization's prior application to FDA, or (3) during a particular month determined by the first letter of the name of the parent company, rather than the region in which the establishment is located.

The Commissioner agrees with the comments that multiplant organizations should be permitted to register their establishments during the same month, and he is revising the final regulation to adopt the third suggestion made by the comments. The suggestion that the address of the general office be used to determine the month in which each establishment is required to register is impractical because many establishments

do not currently provide that address on their Form FD-2656. The Food and Drug Administration is also unable to accept the second suggestion and to expend the resources necessary to review and approve applications from multiplant organizations for specific registration times.

The Commission is revising the schedule for the annual registration to provide that registration forms be sent to each establishment according to the first letter of the name of the establishment's parent company or, if no parent company is named, according to the first letter of the reporting firm's name. A multiplant organization can therefore register all its establishments during the same month and at the same location by specifying the same parent company name and mailing address on each establishment's Form FD-2656.

5. One comment suggested that one of the semiannual periods for updating drug-listing information should coincide with the revised schedule for the annual registration of establishments, as the regulations and the act currently provide, i.e., registration and drug listing in December of each year.

The Commissioner is unable to accept this suggestion. Section 510(j)(2) of the act (21 U.S.C. 360(j)(2)) requires that owners and operators of all registered establishments update their drug-listing information every June and December and, therefore, alternative dates for updating drug-listing information cannot be prescribed by regulations. Revision of the times for the annual registration of drug establishments is necessary to permit a more efficient allocation of FDA resources to the registration process. Scheduling the registration process over the first 7 months of the calendar year will accomplish that goal. Accordingly, the Commissioner is unable to accomplish both his stated goal of improving the efficiency of the annual registration process while at the same time having the drug establishment registration coincide with updating of drug listing information.

6. A comment suggested that the proposed revision of § 207.21 would not achieve the Commissioner's objective of reducing the unbalanced workloads in the FDA regional offices because all establishments in a particular region are required to register during the same month.

The Commissioner concludes that this comment evidences a misunderstanding of how drug establishment registrations are processed by FDA. The annual registration of drug establishments is conducted by the Drug Listing Branch within the Bureau of Drugs of FDA and not by the FDA regional offices. However, the revision of the registration schedule, as discussed in paragraph 4 above, under which the time of the annual registration is determined by the first letter of the establishment's parent company or firm name eliminates the concurrent registration of all establishments within an FDA region.

7. One comment observed that the Bureau of Veterinary Medicine of FDA cur-

rently requires evidence of drug establishment registration before approval of a Form FD-1800, "Application for Animal Feed Bearing or Containing a New Animal Drug." The required evidence includes both the establishment registration number and the date of the last annual registration. The comment pointed out that it currently takes from 4 to 6 weeks to obtain approval of a Form FD-1800. The comment suggested that the proposed revision of the times for annual registration might result in many Forms FD-1800 carrying incorrect registration dates before the date of approval.

The Commissioner concludes that the revision of the times for annual registration of drug establishments will not affect the approval of Forms FD-1800 by the Bureau of Veterinary Medicine so long as the forms are accurate on the date of submission.

8. One comment noted that the preamble to the proposal stated that it was not applicable to owners or operators of blood and blood product establishments who do not manufacture or process other drug products at the same establishment and that such owners or operators must register pursuant to Part 607 (21 CFR Part 607). However, the comment suggested that it was not clear whether owners or operators of blood and blood product establishments who also manufacture or process other drug products at the same establishment must both register pursuant to Parts 207 and 607.

The Commissioner advises that this final regulation is not applicable to owners and operators of blood and blood product establishments who do not manufacture, prepare, propagate, compound, or process other drug products at the same establishments. Owners and operators of such establishments must register pursuant to Part 607. Additionally, under § 207.7(b) (21 CFR 207.7(b)) owners or operators of blood and blood product establishments who also manufacture, prepare, propagate, compound, or process other drug products at the same establishment are required to register pursuant to both Parts 207 and 607.

9. One comment suggested that establishments that produce in vitro diagnostic products and are requested under § 809.20(a) (21 CFR 809.20(a)) to register under Part 207 be exempted from the change in times for the annual registration. The comment observed that the in vitro diagnostic product industry and FDA will have to modify the registration requirements for in vitro diagnostic product establishments under the Medical Device Amendments of 1976 (Pub. L. 94-295) and contended that registration requirements for these establishments should be proposed and considered in the context of the overall registration requirements to be imposed under the medical device legislation.

The Commissioner notes that § 809.20(a) currently provides for the voluntary registration of in vitro diagnostic product establishments, while the Medical Device Amendments of 1976 amend section

510 of the act (21 U.S.C. 360) to require device establishments to register annually. Regulations specifying procedures for the registration of device establishments were proposed in the FEDERAL REGISTER of September 3, 1976 (41 FR 37458). That proposal includes an amendment to § 809.20(a) to delete the reference to Part 207. The Commissioner also stated in the proposal his intent to use the proposed regulations in Part 807 to implement section 510 of the act, as it applies to establishments producing medical devices and to require their registration in 1976. Accordingly, producers of in vitro diagnostic products should discontinue their voluntary registration under Part 207.

10. One comment suggested that drug establishments be required at the time of annual registration to publish a notice once a week for 3 consecutive weeks in a newspaper of general circulation published in the area in which the drug establishment is located. The notice would state that the drug establishment has registered with FDA and that a list of drugs produced and distributed by the establishment is available for public inspection at an FDA district office. The comment contended that the public has a right to know what drugs are manufactured and sold within their communities.

The Commissioner recognizes the right of public access to drug registrations and certain drug-listing information, but he notes that a mechanism already exists to accomplish that goal. Section 510(f) of the act (21 U.S.C. 360(f)) and § 207.37 (21 CFR 207.37) provide for public inspection of Forms FD-2656 at FDA district offices and for the public disclosure of certain drug-listing information. In addition, the Freedom of Information Act (5 U.S.C. 552) and the FDA implementing regulations in Part 4 provide the public with the means to obtain information on drug establishment registrations and drug listings. Accordingly, the suggested scheme for making this information publicly known is unnecessary because of the current provisions for its public availability.

11. The Commissioner is also revising § 207.22, concerning the method under which the annual registration of drug establishments is accomplished, and § 207.35(a), concerning the mailing of a validated copy of Form FD-2656 to the registrant as evidence of registration, to conform those sections to the revised registration schedule in § 207.21.

This regulation shall become effective December 2, 1976. This regulation will be effective for the 1977 calendar year registration of drug establishments and the registration forms will be mailed to establishments during the first 7 months of that year. Because the 1976 registration of drug establishments was conducted between November 15 and December 31, 1975, no registration forms will be required to be submitted in calendar year 1976.

Therefore, under the Federal Food, Drug and Cosmetic Act (secs. 201, 502, 505, 506, 507, 510, 512, 701(a), 704, Pub. L. 717, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055, 1057 as

amended (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374); sec. 351, Pub. L. 410, 58 Stat. 702 as amended (42 U.S.C. 262); the Drug Listing Act of 1972, Pub. L. 92-387; 86 Stat. 559-562 (21 U.S.C. 360 note)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 207 is amended as follows:

1. By revising § 207.21 to read as follows:

§ 207.21 Times for registration and drug listing.

(a) The owner or operator of an establishment entering into an operation defined in § 207.3(c) shall register such establishment within 5 days after the beginning of such operation and submit a list of every drug in commercial distribution at that time. If the owner or operator of the establishment defined in § 207.3(c) has not previously entered into such operation, registration shall follow within 5 days after the submission of a new drug application, new animal drug applications, Form FD-1800, antibiotic Form 5 or 6, or an establishment license application in order to manufacture biological products. Owners or operators of all establishments so engaged shall register annually within 30 days of receipt of registration forms from the Food and Drug Administration. Registration forms shall be mailed to registered establishments by the Food and Drug Administration in each calendar year, according to a schedule based on the first letter of the name of the establishment's parent company, as stated on the firm's registration form or, if no parent company name was stated on that form, by the first letter of the establishment's name. The schedule is as follows:

(1) January—To establishments whose parent company's name or, if no parent company name is given, whose firm name begins with the letter A or B.

(2) February—To establishments whose parent company's name or, if no parent company name is given, whose firm name begins with the letter C, D, or E.

(3) March—To establishments whose parent company's name or, if no parent company name is given, whose firm name begins with the letter F, G, or H.

(4) April—To establishments whose parent company's name or, if no parent company name is given, whose firm name begins with the letter I, J, K, L, or M.

(5) May—To establishments whose parent company's name or, if no parent company name is given, whose firm name is given, whose firm name begins with the letter N, O, P, Q, or R.

(6) June—To establishments whose parent company's name or, if no parent company name is given, whose firm name begins with the letter S or T.

(7) July—To establishments whose parent company's name or, if no parent company name is given, whose firm name begins with the letter U, V, W, X, Y, or Z.

(b) Owners and operators of all establishments so registered shall update their drug listing information every June and December.

2. In § 207.22 by revising paragraph (a) to read as follows:

§ 207.22 How and where to register and list drugs.

(a) The first registration of an establishment shall be on Form FD-2656 (Registration of Drug Establishment) obtainable on request from the Department of Health, Education, and Welfare, Food and Drug Administration, Bureau of Drugs, Drug Listing Branch (HFD-315), 5600 Fishers Lane, Rockville, MD 20852, or from Food and Drug Administration district offices. Subsequent annual registration shall be accomplished on Form FD-2656 (Registration of Drug Establishment), which will be furnished by the Food and Drug Administration according to the schedule listed in § 207.21 to establishments whose drug registration for that year was validated pursuant to § 207.35. The completed form shall be mailed to the above address within 30 days after receipt of the form from the Food and Drug Administration.

3. In § 207.35 by revising paragraph (a) to read as follows:

§ 207.35 Notification of registrant; drug establishment registration number and drug listing number.

(a) The Commissioner will provide to the registrant a validated copy of Form FD-2656 (Registration of Drug Establishment) as evidence of registration. This validated copy will be sent to the mailing address shown on the form. A permanent registration number will be assigned to each drug establishment registered in accordance with these regulations.

Effective date: This regulation shall become effective on December 2, 1976.

(Secs. 201, 502, 505, 506, 507, 510, 512, 701(a), 704, Pub. L. 717, 52 Stat. 1040-1042 as amended, 1050-1053 as amended, 1055, 1057 as amended (21 U.S.C. 321, 352, 355, 356, 357, 360, 360b, 371(a), 374); sec. 351, Pub. L. 410, 58 Stat. 702 as amended (42 U.S.C. 262); The

Drug Listing Act of 1972, Pub. L. 92-387; 86 Stat. 559-562 (21 U.S.C. 360 note).)

Dated: OCTOBER 22, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner
for Compliance.

[FR Doc.76-31828 Filed 11-1-76;8:45 am]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 76N-0122]

PART 436—TESTS AND METHODS OF ASSAY OF ANTIBIOTIC AND ANTIBIOTIC-CONTAINING DRUGS

Vancomycin Hydrochloride; Revision of Working Standard Stock Solution Concentration

The Food and Drug Administration is amending the antibiotic drug regulations to revise the concentration of the vancomycin working standard stock solution; effective December 2, 1976.

In a notice of proposed rule making published in the FEDERAL REGISTER of May 12, 1976 (41 FR 19347), the Commissioner of Food and Drugs proposed that the antibiotic drug regulations be amended in § 436.105 (21 CFR 436.105) by changing the working standard stock solution used to prepare the vancomycin standard response line from 0.4 milligram per milliliter to 1.0 milligram per milliliter. Formerly, vancomycin sulfate was used as the working standard, and the lower concentration was necessary. Now a more soluble form, vancomycin hydrochloride, is used and the higher concentration is appropriate. Sixty days were allowed for public comment on the proposal. No comments were received. Therefore, the Commissioner finds that the amendment should be adopted as proposed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 436 is amended in the table in § 436.105(b) by revising the entry for vancomycin to read as follows:

§ 436.105 Microbiological agar diffusion assay.

(a) * * *

(b) * * *

Working standard stock solutions					Standard response line concentrations	
Antibiotic	Drying conditions (method number as listed in § 436.200)	Initial solvent	Diluent (solution number as listed in § 436.101(a))	Final concentration units or milligrams per milliliter	Storage time under refrigeration	Diluent Final concentrations, units or micrograms of antibiotic activity per milliliter
Vancomycin...	1	Distilled water.		1.0 mg.	1 week	4 6.4, 8.0, 10.0, 12.5, 15.6 µg.

Effective date: This amendment shall become effective December 2, 1976.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: October 21, 1976.

MARY A. MCENIRY,
Assistant Director for Regu-
latory Affairs, Bureau of
Drugs.

[FR Doc. 76-31825 Filed 11-1-76; 8:45 am]

[Docket No. 76N-0121]

PART 448—PEPTIDE ANTIBIOTIC DRUGS

Revocation for Certifying Colistimethate Sodium for Injection

The Food and Drug Administration is revoking the provision for certifying colistimethate sodium for injection; effective December 2, 1976.

In a notice of proposed rule making published in the FEDERAL REGISTER of May 12, 1976 (41 FR 19349), the Commissioner of Food and Drugs proposed that the antibiotic drug regulations be amended in § 448.220b (21 CFR 448.220b) by revoking the provision for certifying colistimethate sodium for injection, a drug product that is no longer marketed. It has been more than 3 years since the Commissioner has received requests for certification of the drug product. Sixty days were allowed for public comment on the proposal. No comments were received. The Commissioner, therefore, finds that the amendment should be adopted as proposed.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357)) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), Part 448 of Subchapter D of Chapter I of Title 21 of the Code of Federal Regulations is amended by revoking § 448.220b Colistimethate sodium for injection.

Effective date: This amendment shall become effective December 2, 1976.

(Sec. 507, 59 Stat. 463 as amended (21 U.S.C. 357).)

Dated: October 21, 1976.

MARY A. MCENIRY,
Assistant Director for Regu-
latory Affairs, Bureau of
Drugs.

[FR Doc. 76-31824 Filed 11-1-76; 8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS AND RELATED PRODUCTS

PART 510—NEW ANIMAL DRUGS

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

Nitrodan

The Food and Drug Administration approves a supplemental new animal drug

application (39-769V) filed by Eight In One Pet Products, Inc., 100 Emjay Blvd., Brentwood, NY 11717, providing for the change of sponsor from Cooper Laboratories, Inc. In the recodification of the current regulation, published in the FEDERAL REGISTER of March 27, 1975 (40 FR 13802), Cooper U.S.A. Inc. was erroneously listed as the sponsor. The NADA provides for the use of a nitrodan dog food supplement as an aid in the control of intestinal worms. The approval is effective November 2, 1976.

The Commissioner of Food and Drug is amending §§ 510.600(c) and 520.1540(c) (21 CFR 510.600(c) and 520.1540(c)) to reflect this approval.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), §§ 510.600(c) and 520.1540(c) are amended as follows:

1. In § 510.600(c), by adding a new sponsor alphabetically to paragraph (c) (1) and numerically to paragraph (c) (2) as follows:

§ 510.600 Names, addresses, and code numbers of sponsors of approved applications.

(c) * * *	
(1) * * *	
Firm name and address:	Drug listing No.
Eight In One Pet Products Inc., 100 Emjay Blvd., Brentwood, NY 11717	035466

(2) * * *	
Drug listing No.:	Firm name and address
035466	Eight In One Pet Projects Inc., 100 Emjay Blvd., Brentwood, NY 11717.

2. In § 520.1540(c), by deleting sponsor "No. 011492" and inserting in its place "No. 035466" as follows:

§ 520.1540 Nitrodan.

(c) Sponsor. See No. 035466 in § 510.600 (c) of this chapter.

Effective date: This amendment shall be effective November 2, 1976.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (1))).

Dated: OCTOBER 22, 1976.

PHILIP D. CAZIER,
Acting Director,
Bureau of Veterinary Medicine.

[FR Doc. 76-31829 Filed 11-1-76; 8:45 am]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

[Recodification Docket No. 14; Docket No. 76N-0320]

PART 573—FOOD ADDITIVES PERMITTED IN FEED AND DRINKING WATER OF ANIMALS

Reorganization and Republication

Correction

In FR Doc. 76-26299, appearing at page 38618 in the issue of Friday, September 10, 1976, on page 38657, the formula in § 573.1020 should be corrected to read: "Na₂Fe(CN)₆".

Title 24—Housing and Urban Development

CHAPTER X—FEDERAL INSURANCE AD- MINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-1057]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Town of Nutley, New Jersey

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Town of Nutley, New Jersey under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Town must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Town Hall, Kennedy Drive, Nutley, New Jersey 07110.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Third River.....	Brookfield Ave.....	52	185	170
	Chestnut St.....	74	130	120
	Harrison St.....	72	125	1,000
	Franklin Ave.....	72	590	680
Third River tributary.....	Elm Pl.....	59	30	140
	Hillside Ave.....	65	100	110
	Kingsland St.....	104	300	20
Passaic River.....	Park Ave.....	13	10	(1)

¹ Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 1, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.
[FR Doc.76-31837 Filed 11-1-76;8:45 am]

[Docket No. FI-1082]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Township of Pennsauken, New Jersey

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the Township of Pennsauken, New Jersey under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Town Hall, 5606 North Crescent Boulevard, Pennsauken, New Jersey 08110.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Pennsauken Creek— Delaware River.	River Rd.....	10	(1)	2,150
	U.S. 130.....	10	(1)	300
South branch Pennsauken Creek.	Fork Landing Rd.....	11	(1)	50
	Moorestown Pike.....	12	(1)	250
Pochack Creek.....	River Rd.....	10	200	50
	Betsy Ross Bridge access road.....	13	100	60
Cooper River.....	Kaighn Ave.....	10	(2)	(1)
	U.S. 130.....	13	(2)	(1)

¹ Outside corporate limits.

² 800 ft to intersection with U.S. 130 and Admiral Wilson Blvd.

³ 2,200 ft to intersection with Admiral Wilson Blvd. and Kaighn Ave.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.
[FR Doc.76-31838 Filed 11-1-76;8:45 am]

[Docket No. FI-1158]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**Final Flood Elevation for City of Southport, North Carolina**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of the final determinations of flood elevations for the City of Southport, North Carolina under § 1917.8 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

City must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.8, no appeals were received from the community or from individuals within the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at City Hall, 217 Dry Street, Southport, North Carolina 28461.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width from shoreline or bank of stream (facing downstream) to 100-yr flood boundary (feet)	
			Right	Left
Droyer's Creek.....	11th St.....	19	40	70
	9th St.....	13	250	250
Cape Fear River.....	Caswell Ave.....	13	(1)	(1)
	Moore St.....	13	(2)	(2)

¹ Entire street south of the point 270 ft south of the intersection with Nash St.

² Entire street between River Dr. and Kinsley St.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 1, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-31839 Filed 11-1-76;8:45 am]

[Docket No. FI-1159]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**Final Flood Elevation for City of Newark, Licking County, Ohio**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the City of Newark, Licking County, Ohio under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the City must adopt flood plain management

measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Engineer's Office and the Mayor's Office, City Building, 40 West Main Street, Newark, Ohio.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Licking River	Sewage disposal plant	805	2,180	
	Liberty St. (extended)	806	1,940	
	Madison Ave. (extended)	810	900	
	Jones St. (extended)	812	1,220	
	Webb St. (extended)	813	900	400
North Fork Licking River	Fleek Ave (extended)	815	580	30
	Penn Central R.R. bridge	818	30	30
	Main St.	820	25	25
	Everett Ave.	823	100	120
	St. Clair St. (extended)	825	60	260
	Manning St.	828	200	20
	Stevens St. (extended)	830	300	60
	Cherry St.	831		80
	Waterworks Rd.	833	80	140
	Price Rd. (extended)	846	880	580
	Kelly Ave. (extended)	832	240	760
	Audrey Dr. (extended)	860	40	280
	Eddy St.	852	80	80
	Sherwood Dr.	854	60	20
	Jefferson Rd.	856	80	220
Log Pond Run	Grafton Ave.	857	40	660
	21st St.	861	40	1,700
	Cherry Valley Rd.	879		80
	Westmoor (extended)	860	40	40
	West Church St.	844	40	40
	North 21st St.	832	30	20
	West Church St.	829	60	140
	North 11th St.	828	400	20
	Main St.	825	20	20
	Wilson St.	823	460	200
Raccoon Creek	B. & O. R.R.	822	20	60
	South 2d St.	817	100	640
	National Dr.	819	60	780
	Orchard St.	822	420	20
South Fork Licking River				

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-31840 Filed 11-1-76;8:45 am]

[Docket No. FI-1168]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Borough of Fox Chapel, Allegheny County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Fox Chapel, Allegheny County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at Council Chambers, Borough Building, 401 Fox Chapel Road, Pittsburgh, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

RULES AND REGULATIONS

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Squaw Run	South corporate limits		90	320
	Fox Chapel Rd.		80	60
	Field Club Rd.		60	320
	Squaw Run Rd.		50	40
	do		160	360
	Squaw Run Rd. east		120	60
	Old Mill Rd.		80	70
	Campbells Lake Dam		200	140
Squaw Run tributary No. 1	East of Fox Chapel Rd.	800	120	
Squaw Run tributary No. 2	North of Hunt Rd. below confluence with tributary No. 3.	850	140	
	North of Hunt Rd. above confluence with tributary No. 3.	870	100	
Squaw Run tributary No. 3	Hunt Rd.	890	80	
Squaw Run tributary No. 4	Below Fairview Rd.	1,020	60	
	Fairview Rd.	1,090	120	
Glade Run	Squaw Run Rd. east		160	240
	Fox Chapel Rd.		120	80
	East corporate limits		160	120
	West corporate limits		120	160
	East corporate limits		100	160

¹ Total width.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-31841 Filed 11-1-76; 8:45 am]

[Docket No. FI-1163]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Township of Spring, Centre County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of Spring, Centre County, Pennsylvania under section 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Municipal Building, R.D. 2, Bellefonte, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Spring Creek	Northern corporate limit	720	300	10
	Northern corporate limit of the borough of Bellefonte	729	180	80
	Western corporate limit of the borough of Bellefonte	752	205	10
Unnamed tributary	Western corporate limit	758	10	470
	Interstate 80 overpass		70	70
	Jacksonville Rd.		80	40
	Interstate 80 access road		60	60
Logan Branch	Southern corporate limit of the borough of Bellefonte		20	120
	Route 425 (extended)		180	60
	Route 532 overpass		160	120
	Western corporate limit		280	300
Gap Run	Western corporate limit		2,540	140
	Route 144		2,280	40
	Norrtown Rd.		4,240	200
	Unnamed road near Sunset St.		40	40
Phantom Lake	In the vicinity of Route 64 and L.R. 14026		(1)	(1)

¹ All of area flooded.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-31842 Filed 11-1-76;8:45 am]

[Docket No. FI-1163]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Borough of Downington, Chester County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Downington, Chester County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain man-

agement measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Bulletin Board at City Hall, 4 West Lancaster Avenue, Downingtown, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Copeland Run	Southern corporate limits	290	130	170
	Penn Central RR	282	160	140
	Pennsylvania Ave	258	180	420
Beaver Creek	Eastern corporate limits	245	340	500
	Manor Ave	240	140	550
	Northern corporate limits	243	320	150
East Branch Brandywine Creek	Pennsylvania Ave	238	460	80
	Penn Central RR	234	40	820
	Southern corporate limits	230	400	50
	Western corporate limits	262	260	160
Parke Run	Woodbine Rd	260	50	400
	Whiteland Ave	248	80	560
	Brandywine Ave	236	140	410

¹ To corporate limit.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc. 76-31843 Filed 11-1-76; 8:45 am]

[Docket No. FI-1164]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Township of East Bradford, Chester County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4218, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of East Bradford, Chester County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain man-

agement measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Secretary's home, 305 North Creek Road, Westchester, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Main stem Brandywine Creek.	Southern corporate limits.....	182	920	(1)
Tributary No. 1.....	Brandywine Creek Rd.....		240	
West Branch of Brandywine Creek.	Western corporate limits.....	190	340	(1)
East Branch of Brandywine Creek.	Wawaset Rd.....	187	40	740
	Allerton Rd.....	192	120	620
	Georgia Farm entrance road.....	198	400	740
	Strasburg Rd.....	202	220	100
	Along tributary 8 (from bank of east branch).	207	740	(1)
	Downington Rd.....	210	60	(1)
	Harmony Hill Rd.....	217	300	(1)
	Corporate limits.....	225	20	(1)
Plum Run.....	Southern corporate limits.....		480	180
	Birmingham Rd.....		180	100
	Lenape Rd. (near corporate limits).....		200	120
	Corporate limits.....		40	80
Tributary 1 of Plum Run.do.....		80	100
Tributary 2 of Plum Run.do.....			
Tributary 3 of Plum Run.	Lenape Rd.....		160	50
Tributary 25 of East Branch.	Brandywine Creek Rd.....		50	80
Tributary 20 of East Branch.	Allerton Rd.....		80	50
Black Horse Run.....	Private lane (approximately 1,300 ft east of East Branch).		280	60
	Private road (approximately 3,400 ft east of East Branch).			
Tributary 1 of Black Horse Run.	Hilldale Rd.....		140	120
			80	140
Tributary 14 of East Branch.	Georgia Farm entrance road.....		80	70
Taylor Run.....	Brandywine Rd. Creek.....	199	320	200
	Strasburg Rd.....		90	130
	Highland Rd. and Downington Rd.....	247	130	410
	Corporate limits.....	259	40	240
Tributary 2 of Taylor Run.	Highland Rd.....		80	140
	Downington Rd.....		160	300
Tributary 3 of Taylor Run.	Strasburg Rd.....		40	40
Tributary 1 of Taylor Run.	Downington Rd.....		30	120
Tributary 11 of East Branch.	Brandywine Creek Rd.....	203	40	200
Tributary 8 of East Branch.do.....		60	240

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Tributary 8A of tributary 8.	Shent Rd.		170	80
Tributary 8B of tributary 8.	do.		200	140
Valley Creek	Shent Rd.	209	120	80
	Harmon Hill Rd.		40	700
	Valley Creek Rd.		100	240
	do.		140	60
Tributary 2 of Valley Creek.	Valley Creek Rd.		40	120
Broad Run	Copland School Rd.		180	80
	do.		240	40
Tributary 1 of Broad Run.	Harmony Hill Rd.		60	55
Tributary 3 of Broad Run.	do.		70	70
Tributary 4 of Broad Run.	do.		70	70
Tributary 7 of East Branch.	East Branch	210	160	170

¹ Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 4, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-31844 Filed 11-1-76;8:45 am]

[Docket No. FI-2218]

**PART 1917—APPEALS FROM FLOOD
ELEVATION DETERMINATION AND
JUDICIAL REVIEW**

**Final Flood Elevation for Township of East
Pennsboro, Cumberland County, Penn-
sylvania**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of East Pennsboro, Cumberland County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Meeting Room in the Township Building, 243 Columbia Road, Enola, Pennsylvania 17025.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from shoreline to 100-yr flood boundary	
			North of centerline of creek	South of centerline of creek
Susquehanna River	County boundary	326	140	
	I-81 bridge	325	200	
	Front St. and corporate limits	322	80	
Conodoguinet Creek	Mathew Rd.	321		320
	Center St. Bridge	321	75	
	Bridge Rd. Bridge	325	200	60
	West corporate limits	330	100	50

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: October 4, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-31845 Filed 11-1-76;8:45 am]

[Docket No. FI-1169]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Borough of Highspire, Dauphin County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Highspire, Dauphin County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Borough must adopt flood plain manage-

ment measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Bulletin Board, Borough Municipal Building, 640 Eshelman Street, Highspire, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River....	White House Lane (east corporate limits; extended).....	303	1 800	(?)
	Burd Run confluence.....	304	260	(?)
	Railroad St. (extended).....	304	1,740	(?)
	Laurel Run confluence.....	305	780	(?)
	West corporate limits.....	306	560	(?)

¹ 100-yr flood boundary width measured south from north corporate limits.

² Outside corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-31846 Filed 11-1-76;8:45 am]

[Docket No. FI-1172]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Township of Lower Swatara, Dauphin County, Penn- sylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Township of Lower Swatara, Dauphin County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the Township must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the office of the Secretary, Lower Swatara Township Building, 30 Olmstead Drive, Middletown, Pennsylvania 17057.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River.....	Extreme northwest end of township near Lumber St. in Highspire.	304	90	
	White House Lane (extended).....	303	20	
	End of airport at Middletown Corp. limit.	300	100	
Swatara Creek.....	Pennsylvania Turnpike.....	308		700
	Vine St. Bridge.....	309		10
	Route 283.....	311		960
	Fulling Mill Rd. (extended).....	312		280
	Longview Dr. (extended).....	314		100
	Reading R.R. Bridge.....	317		580
	Fiddlers Elbow Bridge.....	324		360

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-31847 Filed 11-1-76;8:45 am]

[Docket No. FI-1196]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Final Flood Elevation for Borough of Royalton, Dauphin County, Pennsylvania

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Royalton, Dauphin County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Royalton Borough Office, Burd and Dock Streets, Middletown, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream within corporate limits
Swatara Creek.....	North eastern corporate limits.....	302	460
	Grubb St.....	299	480
	Penn-Central R.R.....	299	200
	Route 441.....	299	270
	Swatara St.....	299	200
	Penn St. (extended).....	299	675
Susquehanna River.....	Market St. (extended).....	299	600
	South west corporate limits.....	299	360
	End of Old Donegal St. (extended) southwest to corporate limits).	299	620

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-31848 Filed 11-1-76;8:45 am]

[Docket No. FI-1184]

PART 1917—APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW**Final Flood Elevation for Borough of Steelton, Dauphin County, Pennsylvania**

The Federal Insurance Administrator, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR Part 1917 (§ 1917.10)), hereby gives notice of his final determinations of flood elevations for the Borough of Steelton, Dauphin County, Pennsylvania under § 1917.9 of Title 24 of the Code of Federal Regulations.

The Administrator, to whom the Secretary has delegated the statutory authority, has developed criteria for flood plain management in flood-prone areas. In order to continue participation in the National Flood Insurance Program, the

Borough must adopt flood plain management measures that are consistent with these criteria and reflect the base flood elevations determined by the Secretary in accordance with 24 CFR Part 1910.

In accordance with Part 1917, an opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. Pursuant to § 1917.9(a), the Administrator has resolved the appeals presented by the community. Therefore, publication of this notice is in compliance with § 1917.10.

Final flood elevations (100-year flood) are listed below for selected locations. Maps and other information showing the detailed outlines of the flood-prone areas and the final elevations are available for review at the Secretary's Office, Municipal Building, 123 North Front Street, Steelton, Pennsylvania.

Accordingly, the Administrator has determined the 100-year (i.e., flood with one-percent chance of annual occurrence) flood elevations as set forth below:

Source of flooding	Location	Elevation in feet above mean sea level	Width in feet from bank of stream to 100-yr flood boundary facing downstream	
			Left	Right
Susquehanna River...	Franklin St. (extended).....	312	1,500	(1)
	Francis St.	312	1,500	(1)
	Trewick St.	311	1,720	(1)
	Mohr St (extended).....	309	1,580	(1)
	T St. (extended).....	306	420	(1)

(1) Corporate limits.

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended (42 U.S.C. 4001-4128); and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, February 27, 1969, as amended by 39 FR 2787, January 24, 1974.)

Issued: September 29, 1976.

J. ROBERT HUNTER,
Federal Insurance Administrator.

[FR Doc.76-31849 Filed 11-1-76;8:45 am]

Title 5—Administrative Personnel**CHAPTER I—CIVIL SERVICE COMMISSION
PART 151—POLITICAL ACTIVITY OF STATE OR LOCAL OFFICERS OR EMPLOYEES****Title Change—Hearing Examiner to Administrative Law Judge Nomenclature Change**

To bring Part 151 up to date, the Civil Service Commission is changing the title of "Hearing Examiner" to "Administrative Law Judge" wherever it appears in this Part.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.76-32007 Filed 11-1-76;8:45 am]

**PART 771—EMPLOYEE GRIEVANCES
PART 772—APPEALS TO THE COMMISSION****Employee's Choice of Representative in Grievances and Appeals**

(1) The Civil Service Commission is amending Part 771 by adding § 771.105

(c) to provide that the agency may disallow the employee's choice of representative on the basis of priority needs of the Government, unreasonable cost to the Government, conflict of interest, or conflict of position and § 771.105(d) to provide that the employee may challenge the agency's decision to disallow his/her choice of representative under § 771.105 (c) to the head of the agency or a person the head of the agency has designated and obtain a decision before proceeding with a grievance.

(2) The Civil Service Commission is amending § 772.307(c) of Part 772 as follows:

(a) To recognize the possible inappropriateness of an employee's choice of representative in an appeal before the Federal Employee Appeals Authority (FEAA), § 772.307(c)(1) is amended to provide that an agency may challenge the appellant's choice of representative before the appeals officer on the grounds of conflict of position or conflict of interest. Such a challenge must be made within 10 days after receipt of the notice of designation of representative and will

be disposed of before consideration of the merits of the case.

(b) To clarify the FEAA's authority to call witnesses in hearings, § 772.307(c)(2) is amended to provide that:

(i) Any agency that has employees entitled to appeal to the FEAA under this part will make its employees available to appear as witnesses at the hearing unless it is administratively impracticable to do so. If the appeals officer concurs in the agency determination of administrative impracticability, he/she will inform both parties to the appeal of the procedures under which a signed sworn statement will be obtained from the witness. If the appeals officer deems the agency's reasons inadequate, he/she may, in assessing the totality of evidence in the case, infer that the missing witness would have given testimony unfavorable to the employing agency.

(ii) Section 772.307(c)(2) is further amended to provide that both parties to the appeal may introduce signed sworn statements and letters of interrogatory.

§ 771.105 Presentation of grievance.

(c) The agency shall have the right:

(1) To disallow the employee's choice of another agency employee as his/her representative if that choice conflicts with priority needs of the Government or would give rise to unreasonable costs to the Government; and

(2) To disallow any selection the employee makes with regard to a representative on the grounds of conflict of interest or conflict of position.

(d) The employee shall have the right to challenge the decision to disallow his/her choice of representative to the head of the agency or a person the head of the agency has designated and obtain a decision before proceeding with a grievance, in accordance with procedures described in the agency grievance system. The decision of the head of the agency or his/her designee will be made no later than 10 days after receipt of the employee challenge unless another reasonable time limit is specified in the agency grievance system. The decision will be final.

(5 U.S.C. 1302, 3301, 3302; E.O. 10577, 3 CFR, 1954-1958 Comp., p. 218; E.O. 10987, 3 CFR, 1959-1963 Comp., p. 519.)

§ 772.307 Hearings.

(c) *Hearing procedures.* (1) An appellant is entitled to appear at the hearing on his/her appeal personally or through or accompanied by a representative. The agency also is entitled to participate in the hearing. The employee will designate his/her representative, if any, in writing to the Federal Employee Appeals Authority, with a copy of the designation provided to the agency. Any subsequent changes in representative also will be in writing. While normally an appellant may choose anyone he/she wishes to serve as representative, the agency may challenge the appellant's choice of representative before the appeals officer on

the grounds of conflict of position or conflict of interest. Such a challenge must be made within 10 days after receipt of the notice of designation or representative and must be disposed of before consideration of the merits of the case. If the appellant changes his/her representative during the course of the proceeding, the agency will be given an opportunity to challenge the new selection. There shall be no interlocutory appeals from the appeals officer's determination with regard to such a challenge.

(2) Both parties are entitled to produce witnesses and to introduce signed sworn statements or letters of interrogatory. The Appeals Authority is not authorized to subpoena witnesses. Any agency that has employees entitled to appeal to the Appeals Authority under this part shall make its employees available to furnish sworn statements or to appear as witnesses at the hearing when requested by the Appeals Authority after consideration of a request by either party to the appeal, unless it is administratively impracticable to comply with the request of the Appeals Authority. In the event that a witness requested by the Appeals Authority is employed by a Federal agency other than the appellant's agency, the witness shall be made available by the employing agency with appropriate reimbursement by the appellant's agency, unless the Appeals Authority concurs in a determination of administrative impracticability. If the employing agency determines that it is not administratively practicable to comply with the request of the Appeals Authority, it shall submit to the Appeals Authority its written reasons for the declination. If the appeals officer determines that the reason for the declination is adequate, the appeals officer shall insert the explanation in the record, notify the requesting party that the witness(es) will not be provided and of the reason therefor and, when appropriate, inform both parties to the appeal of the procedures under which a signed sworn statement or letter of interrogatory will be obtained from the witness(es). If the appeals officer deems the reasons inadequate, and further determines that the requested witness is likely to possess special or peculiar knowledge about the matters in dispute, the appeals officer, may, in assessing the totality of evidence in the case, infer that the absent witness would have given testimony unfavorable to the employing agency. Federal employees shall be in an official duty status for all purposes in connection with their provision of sworn statements or their appearance as witnesses and shall be free from restraint, interference, coercion, discrimination, or reprisal in presenting their testimony.

(5 U.S.C. 1302, 3301, 3302, 5115, 5388, 7512, 7701, 8347; E.O. 10577, 3 CFR, 1954-1958 Comp. p. 218; E.O. 11491, 3 CFR, 1966-1970 Comp. p. 803.)

NOTE.—It is hereby certified that the economic and inflationary impacts of this regulation have been carefully evaluated in accordance with OMB Circular No. A107.

Effective date: October 6, 1976.

UNITED STATES CIVIL SERVICE COMMISSION.

JAMES C. SPRY,
Executive Assistant
to the Commissioners.

[FR Doc.76-32059 Filed 11-1-76;8:45 am]

Title 17—Commodity and Securities Exchange

CHAPTER I—COMMODITY FUTURES TRADING COMMISSION

REPORTING REQUIREMENTS

Adoption of Amendments

The Commodity Futures Trading Commission ("the Commission") has adopted amendments to Parts 1, 15 and 17 of its regulations under the Commodity Exchange Act, as amended ("Act"), 7 U.S.C. 1 et seq. On July 23, 1976, a notice was published in the FEDERAL REGISTER¹ that the Commission was considering adoption of amendments which would:

1. Allow contract markets to provide delivery notice information in a form and manner approved by the Commission and when so approved to discontinue filing copies of each notice of delivery. This would in some instances involve supplying only summary information and/or information by means of data processing media.

2. Raise the levels at which reports will be required to be filed by merchants, processors and dealers pursuant to 17 CFR Part 19, except for those reports dealing with cotton.

3. Allow futures commission merchants ("FCM's") and foreign brokers to submit information required by 17 CFR Part 17 on computer printouts that the Commission will prepare and supply, based on information those persons have previously submitted to the Commission.

Interested persons were given until August 27, 1976, to submit comments, suggestions or objections regarding the proposed amendments.

No written comments were received in response to the Commission's announcement. The informal comments on the proposed amendments, which the Commission received at meetings with FCM's and contract market officials and their representatives held in Minneapolis, Chicago, New York and Kansas City, were generally favorable.² However, there was one objection to the requirements in the proposed amendments to §§ 1.42(b) and

¹ See 41 FR 3050 (July 23, 1976).

² A copy of the FEDERAL REGISTER notice that set forth the proposed amendments was sent to all FCM's, together with a memorandum dated July 16, 1976, which invited the FCM's to attend these meetings and to discuss the proposed amendments. At several of the meetings, FCM's expressed support for items 2 and 3 above. Item 3, supplying FCM's with Commission-updated printouts, has been tried on an experimental basis and those at the meeting who were using this method of reporting stated that it saved them a substantial amount of time compared with using the reporting forms.

17.03 that information provided by data processing media and/or computer printouts be certified as complete and accurate. It was contended that such information could not be certified as complete and accurate but only as authentic, i.e., accurate only to the extent of the accuracy of the source records. The Commission had considered this objection but has determined to retain the proposed requirements that the data processing media and/or computer printouts be certified as complete and accurate and to specify who shall sign the certification. The Commission has, however, attempted to temper the proposed amendments to §§ 1.42 and 17.03 by permitting the certification to be made subject to the signer's best knowledge and belief, after making a reasonable inquiry. In doing so the Commission, although it expects data processing media and/or computer printouts submitted to the Commission to be complete and accurate, is attempting to obtain information of reasonable accuracy as promptly as possible.³

In addition, the Commission, after further review of the proposed amendments, has determined to adopt certain of the proposals in a slightly modified form. These modifications are discussed below:

1. The amendments to § 15.01(d) proposed higher quantities fixed for reports required to be filed by merchants, processors and dealers pursuant to Part 19 of the regulations. The proposed quantities fixed for potatoes and wheat were 300 carlots and 2,000,000 bushels, respectively. In view of the recent revisions to Part 150 of the regulations, increasing the speculative position and trading limits in wheat from 2,000,000 to 3,000,000 bushels,⁴ the Commission has determined to increase the quantities fixed for the purpose of these reports in wheat to 3,000,000 bushels. With respect to potatoes, however, the Commission has determined to reduce the quantity fixed for these reports to 150 carlots for purposes of its present market surveillance program.

2. Upon review of the proposed amendments to § 1.42, the Commission noted that a change in language was necessary in order to carry out the intended purpose. As published, the proposed regulation would not allow contract markets to supply the required information in a summary form other than by means of data processing media. Since it is the intention of the Commission to allow such information to be provided by means other than data processing media, subject to written Commission approval of the alternative form, the proposed amendment to § 1.42 of the regulations has been accordingly modified.

In consideration of the above, the Commission, pursuant to its authority under sections 4g(1), 4i, 5(b) and 8a(5)

³ In this connection, the Commission is in the process of reviewing its reporting requirements generally and anticipates that it may propose further revisions. Future revisions may require other reports filed with the Commission to be signed and certified as to completeness and accuracy.

⁴ See 41 FR 35060 (August 9, 1976).

of the Act, 7 U.S.C. 6g(1), 6i, 7(b) and 12a(5), (Supp. V, 1975) hereby amends Part 1, 15 and 17 of Title 17 of the Code of Federal Regulations, as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

1. Section 1.42 is revised to read as follows:

§ 1.42 Delivery notice; filing of copy.

(a) Each contract market shall furnish or cause to be furnished promptly to the Commission a copy of each notice of delivery issued by any member thereof covering the delivery of any commodity on a futures contract made on or subject to the rules of such contract market, and shall also furnish or cause to be furnished promptly to the Commission a record of all endorsements of the original notice of delivery shown in the order in which such endorsements were made.

(b) Any contract market may provide the required delivery notice information on compatible data processing punched cards, magnetic tapes, magnetic discs, computer printouts, or other means: *Provided*, That the format and coding structure and the information contained thereon have been approved in writing by the Commission. A computer listing of any information supplied via data processing media must also be provided and must be certified by an officer of the contract market to be to the best of his knowledge and belief after making a reasonable inquiry, complete and accurate.

PART 15—REPORTS—GENERAL PROVISIONS

2. Section 15.00(b) is revised to read as follows:

§ 15.00 Definitions.

(b) "Reportable position" means:

(1) For purposes of reports required by Parts 17 and 18 and § 19.02 of this chapter, any open contract position in any one future of any commodity on any one contract market, which, at the close of the market on any business day, equals or exceeds the quantity fixed in § 15.03(a) of this chapter for reporting purposes for the particular commodity.

(2) For purposes of all reports required by Part 19 except those required by § 19.02 of this chapter, any open contract position in any one future or all futures combined either gross long or gross short of any commodity on any one contract market, which, at the close of the market on any business day, equals or exceeds the quantity fixed in § 15.03(b) for reporting purposes for the particular commodity.

3. Section 15.01 (c) and (d) are revised to read as follows:

§ 15.01 Persons required to report.

(c) Traders who hold or control open contracts which equal or exceed the quantity fixed for reporting in § 15.03(a), as specified in Part 18 of this chapter.

(d) Merchants, processors, and dealers in certain commodities who hold or control open contracts in such commodities which equal or exceed the quantity fixed for reporting in §§ 15.03(a) and 15.03(b), as specified in Part 19 of this chapter. A merchant, processor, or dealer who is also a trader is, in addition, subject to Part 18 of this chapter.

4. Section 15.03 is revised to read as follows:

§ 15.03 Quantities fixed for reporting.

(a) The quantities fixed for the purpose of reports filed under Parts 17, 18 and § 19.02 of this Chapter are as follows:

Commodity:	Quantity, bushels
Wheat	200,000
Corn	200,000
Oats	200,000
Rye	200,000
Barley	200,000
Flaxseed	200,000
Soybeans	200,000
Cotton (bales)	5,000
Silver bullion	150
All other commodities	125

¹ Contract units.

(b) The quantities fixed for the purpose of all reports filed under Part 19 of this Chapter, except those required by § 19.02 of this Chapter, are as follows:

Commodity:	Quantity, bushels
Wheat	3,000,000
Corn	3,000,000
Oats	2,000,000
Rye	500,000
Barley	2,000,000
Flaxseed	2,000,000
Soybeans	3,000,000
Potatoes	150
Eggs	150

¹ Carlots.

PART 17—REPORTS BY FUTURES COMMISSION MERCHANTS AND FOREIGN BROKERS

5. Section 17.03 is revised to read as follows:

§ 17.03 Use of data processing media.

Any futures commission merchant may provide the required series '01 information on compatible data processing punched cards, magnetic tapes, magnetic discs, or updated Commission-supplied computer printouts: *Provided*, That the format and coding structure used thereon have been approved in writing by the Commission. Information provided by means of data processing media must also be accompanied by a printout of the information certified by the futures commission merchant or a general partner or officer of the futures commission merchant to be, to the best of his knowledge and belief after making a reasonable inquiry, complete and accurate. When a Commission-supplied computer printout is updated, it must be certified by the futures commission merchant or a general partner or officer of the futures commission merchant to be, to the best of his knowledge and belief after making a reasonable inquiry, complete and accurate.

Any certification required by this section may be made by a person designated by the futures commission merchant for such purpose provided such designee has been identified in writing to the Commission as the designee of the futures commission merchant prior to the certification.

The foregoing amendments to Parts 1, 15 and 17 of Title 17 of the Code of Federal Regulations will become effective on November 26, 1976.

Issued in Washington, D.C., on October 28, 1976.

By the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity Futures
Trading Commission.

[FR Doc.76-32058 Filed 11-1-76;8:45 am]

Title 15—Commerce and Foreign Trade CHAPTER IX, NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, DE- PARTMENT OF COMMERCE

PART 923—COASTAL ZONE MAN- AGEMENT PROGRAM APPROVAL REGULA- TIONS

Island Segmentation in State Coastal Zone Management Programs

On November 10, 1975, a proposed amendment to Subpart E, § 923.43 was published in the FEDERAL REGISTER (40 FR 52405). The proposed amendment added a new paragraph (c) to § 923.43—Segmentation, in order to waive certain requirements found in § 923.43 for island segments submitted to the Secretary of Commerce for approval. Under the proposed amendment, completion of a State's consideration of the national interest involved in the siting of facilities necessary to meet requirements which are other than local in nature, and of a definition of boundaries of the coastal zone for the entire State, would no longer be required before an island segment could receive approval under section 306 of the Act. (These requirements for segmentation are now found in § 923.43(a) and (b)(2)).

It should be noted that section 306(h) of the Coastal Zone Management Act of 1972, as amended, (Pub. L. 92-583, 86 Stat. 1280, 15 U.S.C. 1451 et seq.) (CZMA) also requires "ultimate coordination" of the approved segment with the overall State's coastal zone management program. This amendment is not intended in any manner to circumvent the requirement found in section 306(h). Regulatory requirements found in § 923.43(a) and (b)(2) were developed in addition to the statutory requirement of section 306(h) but are not relevant for island segments.

Interested persons have been afforded an opportunity to respond to this proposed amendment by its publication in the FEDERAL REGISTER on November 10, 1975. Comments were invited through November 30, 1975. Comments received after that time were also given due consideration.

Most commentators objected to the issuance of this amendment to § 923.43,

primarily because they viewed the waiver of facility siting and boundaries requirements as an opportunity for a State to make incremental decisions affecting its coastal zone without adequate reference to these vital aspects of the overall programs.

Some commentators thought that these elements of a State management program should be minimal requirements and should be completed prior to the approval of any single segment, because the proposed waiver could act as an incentive for further segmentation.

One commentator pointed out the importance of State consideration of the national interest in facility siting and its sensitive and complex relationship to Federal agencies, with particular reference to Outer Continental Shelf development activities. It was suggested that this national interest consideration is a process which must be undertaken at an early stage of State coastal zone planning.

Another major objection revolved around the apparent lack of accountability, coordination, and consultation with other Federal agencies when such regulatory requirements are to be waived.

A final objection raised by one commentator contended that the proposed language did not indicate whether the proposed amendment would be permanent or temporary. In addition, it was proposed that the phrase "extenuating circumstances" should be further clarified.

One commentator praised the proposed amendment because of the latitude it would give the Office of Coastal Zone Management (OCZM) in reviewing submissions on their own merits.

All comments received were given due consideration and modifications have been made in the final text.

It is important to point out that the segmentation regulations relating to national interest in facility siting and boundary determination for a State's entire coastal zone found in § 923.43 (a) and (b) (2) have no direct counterpart in the CZMA. These requirements were made applicable to segments of a management program by OCZM to more adequately assure coordination with and integration into a State's final management program.

Small island segments, however, present a unique situation. They are often small separate ecological units, unrelated to other areas of a State's coastline. In many cases a coastal zone management program segment can be developed with relative ease for these physically and ecologically separate segments. Such is the case of Island of Culebra in the Commonwealth of Puerto Rico. Here the definition of the State's ultimate coastal zone boundary and the consideration of the Federal interest in facility siting for the entire Commonwealth bear no rational or administrative relationship to the Culebra Island segment.

No attempt is made here to circumvent the clear requirement of the section 306(h) of the CZMA which states:

At the discretion of the state and with the approval of the Secretary, a management program may be developed and adopted in segments so that immediate attention may be devoted to those areas within the coastal zone which most urgently need management programs: Provided, that the state adequately provides for the ultimate coordination of the various segments of the management program into a single unified program and that the unified program will be completed as soon as is reasonably practicable.

In consideration of the foregoing, 15 CFR Part 923 is amended by adding a new paragraph (c) to § 923.43 to read as follows, effective November 2, 1976.

Dated: October 27, 1976.

R. L. CARNAHAN,
Acting Assistant Administrator
for Administration.

Paragraph (c) is added to 15 CFR 923.43 as follows:

§ 923.43 Segmentation.

(c) It is recognized that small islands may form separate and unique ecological units for which a segment of the management program may be established with relatively few problems. OCZM may waive certain requirements related to segmented approval for islands under this section. The requirements that the State must (1) provide an adequate consideration of the national interest in the siting of facilities necessary to meet requirements which are other than local in nature for the State's entire coastal zone and (2) define the boundaries of the coastal zone for the entire State may be waived if OCZM determines that their completion would serve no useful purpose in evaluating the merits of the application for approval of a small island segment.

(Sec. 306, Coastal Zone Management Act of 1972, as amended (Pub. L. 92-583, 86 Stat. 1280, 16 U.S.C. 1451 et seq.))

[FR Doc.76-32021 Filed 11-1-76;8:45 am]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

[Docket C-2840]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Carl Stepp Trading as Ace Stereo and Sewing Machine Company

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.90 History of product or offering; § 13.155 Prices; 13.155-10 Bait; 13.155-78 Repossession balances; § 13.160 Promotional sales plans; § 13.205 Scientific or other relevant facts; § 13.260 Terms and conditions. Subpart—Contracting for sale in any form binding on buyer prior to specified time period: § 13.527 Contracting for sale in any form binding on buyer prior to end of specified time period. Subpart—Corrective actions and/or requirements: § 13.533 Corrective actions and/or requirements; 13.533-20 Disclosures; 13.533-37 Formal regulatory and/or statutory requirements; 13.533-55 Refunds, rebates

and/or credits. Subpart—Disparaging products, merchandise, services, etc.: § 13.1042 Disparaging products, merchandise, services, etc. Subpart—Failing to provide foreign language translations: § 13.1052 Failing to provide foreign language translations. Subpart—Misrepresenting oneself and goods—Goods: § 13.1647 Guarantee; § 13.1650 History of product; § 13.1740 Scientific or other relevant facts; § 13.1760 Terms and conditions; 13.1760-50 Sales contract. Subpart—Misrepresenting oneself and goods—Prices: § 13.1779 Bait. Subpart—Misrepresenting oneself and goods—Promotional sales plans: § 13.1830 Promotional sales plans. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1892 Sales contract, right-to-cancel provision; § 13.1895 Scientific or other relevant facts; § 13.1905 Terms and conditions; 13.1905-50 Sales contract. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.1980 Guarantee, in general; § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721; 15 U.S.C. 46, Interprets or applies Sec. 5, 38 Stat. 719, as amended; 15 U.S.C. 45)

In the Matter of Carl Stepp, an individual, trading and doing business as Ace Stereo and Sewing Machine Company.

Consent order requiring a Decatur, Ga., sewing machine retailer, among other things to cease using deceptive terminology and bait and switch sales tactics; failing to disclose conditions and limitations of warranties; and failing to provide foreign language translations of pertinent information. Further, respondent is required to disclose, at the time of sale, that purchasers have the right to a three-day period in which to cancel their contract, and to honor valid cancellations.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

ORDER

It is ordered That respondent Carl Stepp, an individual trading and doing business as Ace Stereo and Sewing Machine Company and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or any other device in connection with the advertising, offering for sale, selling or distributing of sewing machines or any other article of merchandise in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Using in any manner a sales plan, scheme or device wherein false, misleading or deceptive statements or representations are made in order to obtain leads or prospects for the sale of sewing machines or other merchandise.

2. Making representations orally, or in writing, directly or by implication purporting to offer sewing machines or other merchandise for sale where the purpose

¹ Copies of the Complaint, Decision and Order filed with the original document.

of the representation is not to sell the offered merchandise, but to obtain leads or prospects for the sale of other sewing machines or other merchandise at higher prices.

3. Disparaging in any manner or discouraging the purchase of any sewing machine or other merchandise which is advertised or offered for sale.

4. Representing orally, or in writing, directly or by implication that any sewing machine or other merchandise is offered for sale when such offer is not a bona fide offer to sell such sewing machines or other merchandise.

5. Using words or abbreviations such as "Bal." unless such words or abbreviations correctly describe the advertised sewing machine or other merchandise as partially paid for by a previous purchaser and offered for sale for the unpaid balance of the purchase price.

6. Using words such as "unclaimed lay-away" or "repossessed" unless such words correctly describe the sewing machine or other merchandise referred to.

7. Representing orally, or in writing, directly or by implication that any sewing machine or other merchandise is guaranteed unless the nature and extent of the guarantee, the manner in which the guarantor will perform, and the identity of the guarantor are clearly and conspicuously disclosed.

Nothing in this order shall be construed to relieve respondent of his duty to comply with present and future laws, regulations and rules dealing with warranties or guarantees.

It is further ordered that respondent Carl Stepp, an individual trading and doing business as Ace Stereo and Sewing Machine Company and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or any other device in connection with the door-to-door sale of sewing machines or any other article of merchandise in or affecting commerce as "commerce" is defined in the Federal Trade Commission Act, as amended, do forthwith cease and desist from:

1. Failing to furnish the buyer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and address of the seller, and in immediate proximity to the space reserved in the contract for the signature of the buyer or on the front page of the receipt if a contract is not used and in boldface type of a minimum size of 10 points, a statement in substantially the following form: You, the buyer, may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the attached notice of cancellation form for an explanation of this right.

2. Failing to furnish each buyer, at the time he signs the door-to-door sales contract or otherwise agrees to buy consumer goods or services from the seller, a completed form in duplicate, cap-

tioned, "NOTICE OF CANCELLATION," which shall be attached to the contract or receipt and easily detachable, and which shall contain in 10-point boldface type the following information and statements in the same language, e.g., Spanish, as that used in the contract:

NOTICE OF CANCELLATION

(Enter date of transaction)

(date)

You may cancel this transaction, without any penalty or obligation within three (3) business days from the above date.

If you cancel, any property traded in, any payments made by you under the contract or sale, and any negotiable instrument executed by you will be returned within ten (10) business days following receipt by the seller of your cancellation notice, and any security interest arising out of the transaction will be canceled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale; or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within twenty (20) days of the date of your notice of cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, then you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this cancellation notice or any other written notice, or send a telegram to

(name of seller)

at (address of seller's place of business)

not later than midnight of (date)

I hereby cancel this transaction.

(date)

(buyer's signature)

3. Failing, before furnishing copies of the "Notice of Cancellation" to the buyer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the buyer may give notice of cancellation.

4. Failing to inform each buyer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel.

5. Misrepresenting in any manner the buyer's right to cancel.

6. Failing or refusing to honor any valid notice of cancellation by a buyer and within ten (10) business days after the receipt of such notice, to (i) refund all payments made under the contract or sale; (ii) return any goods or property traded in, in substantially as good condition as when received by the seller;

and (iii) cancel and return any negotiable instrument executed by the buyer in connection with the contract or sale and take any action necessary or appropriate to terminate promptly any security interest created in the transaction.

7. Negotiating, transferring, selling, or assigning any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased.

8. Failing, within ten (10) business days of receipt of the buyer's notice of cancellation, to notify him whether the seller intends to repossess or to abandon any shipped or delivered goods.

It is further ordered That the respondent shall distribute a copy of this order to all present and future employees, salesmen and agents.

It is further ordered That the respondent promptly notify the Commission of the discontinuance of his present business or employment and of his affiliation with a new business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered That the respondent herein shall within sixty (60) days after service upon him of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

Commissioner Dole did not participate by reason of absence.

The Decision and Order was issued by the Commission September 17, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-32073 Filed 11-17-76; 8:45 am]

[Docket C-2838]

PART 13—PROHIBITED TRADE PRACTICES, AND AFFIRMATIVE CORRECTIVE ACTIONS

Hong Kong Custom Tailors, Inc., Et Al.

Subpart—Advertising falsely or misleadingly: § 13.10 Advertising falsely or misleadingly; § 13.30 Composition of goods; 13.30-75 Textile Fiber Products Identification Act; 13.30-100 Wool Products Labeling Act; § 13.45 Content; § 13.73 Formal regulatory and statutory requirements; 13.73-70 Wool Products Labeling Act; 13.73-90 Textile Fiber Products Identification Act; § 13.205 Scientific or other relevant facts. Subpart—Invoicing products falsely: § 13.1108 Invoicing products falsely; 13.1108-80 Textile Fiber Products Identification Act. Subpart—Misbranding or mislabeling: § 13.1170 Advertising and promotion; § 13.1185 Composition; 13.1185-80 Textile Fiber Products Identification Act; 13.1185-90 Wool Products Labeling Act; § 13.1320 Scientific or other relevant facts. Subpart—Misrepresenting oneself and goods—Goods: § 13.1590 Composition; 13.1590-70 Tex-

tile Fiber Products Identification Act; 13.1590-90 Wool Products Labeling Act; § 13.1605 Content; § 13.1623 Formal regulatory and statutory requirements; 13.1623-80 Textile Fiber Products Identification Act; 13.1623-90 Wool Products Labeling Act; § 13.1740 Scientific or other relevant facts. Subpart—Neglecting, unfairly or deceptively, to make material disclosure: § 13.1845 Composition; 13.1845-70 Textile Fiber Products Identification Act; 13.1845-80 Wool Products Labeling Act; § 13.1850 Content; § 13.1852 Formal regulatory and statutory requirements; 13.1852-70 Textile Fiber Products Identification Act; 13.1852-80 Wool Products Labeling Act; § 13.1895 Scientific or other relevant facts. Subpart—Offering unfair, improper and deceptive inducements to purchase or deal: § 13.2063 Scientific or other relevant facts.

(Sec. 6, 38 Stat. 721, 15 U.S.C. 46, Interpret or apply sec. 5, 38 Stat. 719, as amended, 72 Stat. 1717; Secs. 2-5, 54 Stat. 1128-1130; 15 U.S.C. 45, 70, 68)

In the Matter of Hong Kong Custom Tailors, Inc., a corporation, and Hong Kong Custom Tailors of Maryland, Inc., a corporation, and Hong Kong Custom Tailors of Springfield, Virginia, Inc., a corporation, and Hong Kong Custom Tailors, Virginia, Inc., a corporation, and Lal I. Keswani, individually and as an officer of said corporations.

Consent order requiring a Washington, D.C., importer and seller of wool and textile fiber products, among other things to cease misbranding and mislabeling its wool and textile fiber products.

The order to cease and desist, including further order requiring report of compliance therewith, is as follows:

ORDER

It is ordered That respondents Hong Kong Custom Tailors, Inc., a corporation, Hong Kong Custom Tailors of Maryland, Inc., a corporation, Hong Kong Custom Tailors of Springfield, Virginia, Inc., a corporation, Hong Kong Custom Tailors, Virginia, Inc., a corporation, their successors and assigns, and their officers, and Lal I. Keswani, individually and as an officer of said corporate respondents, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the introduction, or importing for introduction into commerce, or the offering for sale, sale, transportation, distribution, delivery for shipment, in commerce, of wool products, as "commerce" and "wool product" are defined in the Wool Products Labeling Act of 1939, do forthwith cease and desist from misbranding such products by:

1. Falsely and deceptively stamping, tagging, labeling, or otherwise identifying such products as to the character or amount of the constituent fibers contained therein.

2. Failing to securely affix to, or place on, each such product a stamp, tag, label, or other means of identification showing in a clear, legible and conspicuous manner each element of information required to be disclosed by section 4(a) (2) of the Wool Products Labeling Act of 1939.

3. Failing to securely affix labels to samples, swatches or specimens of wool products used to promote or effect sales of such wool products, showing in words and figures plainly legible all the information required to be disclosed by section 4(a) (2) of the Wool Products Labeling Act of 1939.

It is further ordered, That respondents Hong Kong Custom Tailors, Inc., a corporation, Hong Kong Custom Tailors of Maryland, Inc., a corporation, Hong Kong Custom Tailors of Springfield, Virginia, Inc., a corporation, Hong Kong Custom Tailors, Virginia, Inc., a corporation, their successors and assigns, and their officers, and Lal I. Keswani, individually and as an officer of said corporate respondents, and respondents' agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the introduction, delivery for introduction, sale, advertising or offering for sale in commerce, or the transportation or causing to be transported in commerce, or the importation into the United States of any textile fiber product; or in connection with the sale, offering for sale, advertising, delivery, transportation, or causing to be transported of any textile fiber product which has been advertised or offered for sale in commerce; or in connection with the sale, offering for sale, advertising, delivery, transportation or causing to be transported after shipment in commerce, of any textile fiber product, whether in its original state or contained in other textile fiber products, as "commerce" and "textile fiber product" are defined in the Textile Fiber Products Identification Act, do forthwith cease and desist from:

A. Misbranding textile fiber products by:

1. Falsely or deceptively stamping, tagging, labeling, invoicing, advertising or otherwise identifying such products as to the name or amount of the constituent fibers contained therein.

2. Failing to affix a stamp, tag, label or other means of identification to each such product showing in a clear, legible and conspicuous manner each element of information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

3. Failing to securely affix labels to samples, swatches or specimens of textile fiber products used to promote or effect sales of such textile fiber products showing in words and figures plainly legible all the information required to be disclosed by Section 4(b) of the Textile Fiber Products Identification Act.

It is further ordered, That respondents shall forthwith deliver a copy of this order to cease and desist to all present

and future personnel engaged in the offering for sale, or sale, of any wool or textile fiber products, and that respondents secure a signed statement acknowledging receipt of said order from each such person.

It is further ordered That respondents notify the Commission at least thirty (30) days prior to any proposed change in the corporate respondents such as dissolution, assignment or sale resulting in the emergence of a successor corporation, the creation or dissolution of subsidiaries or any other change in the corporations which may affect compliance obligations arising out of the order.

It is further ordered That the individual respondent named herein promptly notify the Commission of the discontinuance of his present business or employment. Such notice shall include respondent's current business address and a statement as to the nature of the business or employment in which he is engaged as well as a description of his duties and responsibilities.

It is further ordered That the respondents herein shall within sixty (60) days after service upon them of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which they have complied with this order.

Commissioner Dole did not participate by reason of absence.

The Decision and Order was issued by the Commission September 17, 1976.

CHARLES A. TOBIN,
Secretary.

[FR Doc.76-32074 Filed 11-1-76;8:45 am]

SUBCHAPTER C—REGULATIONS UNDER SPECIFIC ACTS OF CONGRESS

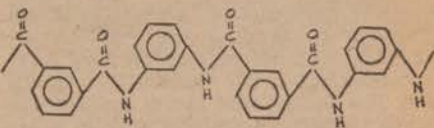
[Docket No. 206-15]

PART 303—RULES AND REGULATIONS UNDER THE TEXTILE FIBER PRODUCTS IDENTIFICATION ACT

Names and Definitions; Correction

In FR Doc. 73-26167 appearing at page 34112 in the FEDERAL REGISTER of December 11, 1973, "Insert A" on page 34113 incorrectly depicts an ortho-oriented structure for the type of aramid fiber sold under the trademark "Nomex" by E. I. duPont de Nemours & Company.

"Insert A" is corrected by deleting the formula depicted and by substituting in its place the following structural formula, which depicts the meta-oriented structure which is proper for "Nomex" aramid fiber:



Issued: October 22, 1976.

By the Commission.

JAMES A. TOBIN,
Acting Secretary.

[FR Doc.76-32075 Filed 11-1-76;8:45 am]

¹ Copies of the Complaint, Decision and Order filed with the original document.

Title 13—Business Credit and Assistance
CHAPTER III—ECONOMIC DEVELOPMENT
ADMINISTRATION, DEPARTMENT OF
COMMERCE

PART 316—LOCAL PUBLIC WORKS CAP-
ITAL DEVELOPMENT AND INVESTMENT
PROGRAM

Republication; Correction

In FR Doc. 76-30870 appearing on page 46420 in the FEDERAL REGISTER of Wednesday, October 20, 1976, the following changes should be made:

1. On page 46424 § 316.14(a) (2) should read as follows:

§ 316.14 Environmental considerations.

(a) * * *

(2) In order that EDA may conduct its environmental analysis of proposed projects, applicants shall include the following materials with their application, except with respect to subsections (iii) and (iv) if such materials are not available in which case the applicant must so certify:

2. On page 46424 § 316.14(b) is corrected by deleting the second of the subparagraphs which are designated (2)

Dated: October 29, 1976.

WILLIAM F. CLINGER, Jr.,
Chief Counsel.

[FR Doc. 76-32233 Filed 11-1-76; 8:45 am]

Title 14—Aeronautics and Space
CHAPTER II—CIVIL AERONAUTICS
BOARD

SUBCHAPTER B—PROCEDURAL REGULATIONS
 [Reg. PR-160; Amdt. 3; 29626]

PART 300—RULES OF CONDUCT IN
BOARD PROCEEDINGS

Amendment to Reissuance of Part

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. October 15, 1976.

Effective: October 25, 1976.

Adopted: October 15, 1976.

This document amends a reissuance of the Board's Rules of Conduct in Board Proceedings, which are interim regulations. It is a response to comments from the public and becomes effective at the same time as the regulation it amends.

By PR-154, adopted August 10, 1976 (41 FR 34587, August 16, 1976) the Board reissued Part 300 of its Procedural Regulations, providing for a substantial revision of the Rules of Conduct in Board Proceedings. Because the revision involved matters of agency procedure, public comment was not required by 5 U.S.C. 553. The Board was faced, on the one hand, with the desire promptly to institute the beneficial changes embodied in the revision, and, on the other hand, with the recognition that although only procedural changes were involved the public was concerned, and that from the viewpoint of both the Board and the public it would be beneficial to receive public comments.

The Board resolved these conflicting considerations by reissuing Part 300 as an interim regulation, to become effective September 30, 1976, and affording the public a period of thirty days to present its most pressing problems (those that would "inflict such substantial injury as to warrant relief") prior to the rule's taking effect. Simultaneously with the issuance of PR-154, the Board issued PDR-41 (41 FR 34650, August 16, 1976), a Notice of Proposed Rulemaking, the proposal being to adopt the interim regulation as a final regulation and affording the public an extended period (until December 29, 1976) to comment on the proposal. As a result of the two described actions the Board anticipated securing the immediate benefits of the interim regulation (safeguarded by interim comments from the public), the experience with the actual application of the interim regulation, and, for the long run, full and detailed comments with respect to the establishment of a final regulation.

The Board is convinced that actual experience under the interim rule will greatly assist our objective of promulgating a fair and final rule: a final rule that gives interested persons full opportunity to make their views known while assuring that the public knows what those views are. Such experience cannot be obtained through comments alone. We also assure the public that if at any point during the experimental period communication with the Board is impeded to the detriment of the public interest immediate corrective action shall be taken.

The Board has before it now for consideration the comments filed before September 15, 1976, seeking immediate changes in the interim regulation which was to become effective September 30, 1976.¹ We have given careful consideration to the comments and, as will appear from the discussion below, have determined to make certain changes in the interim regulation in line with some of the comments and to reject some of the other suggestions offered.

The point most seriously pressed by a number of the comments is that § 300.2a in conjunction with § 300.7 has a chilling effect on the exercise of First Amendment rights and thereby improperly restricts freedom of speech, freedom of the press, and free access to elected representatives, particularly as applied to rulemaking and nonhearing matters. Section 300.2a generally prohibits (as does § 300.2(d) of our presently effective rules) influence and solicitation "to sway the judgement of the Board by attempting to bring pressure or influence to bear upon any Member of the Board or Board employee, or that any person, directly or indirectly, give statements

¹ In order to give full consideration to the comments and adequate notice to the public of any changes made in the interim regulation, we postponed the effectiveness of the interim regulation to October 18, 1976 (PR-154, 41 F.R. 43215, October 4, 1976, and later to October 25, 1976 (PR-159)).

to the communications media by paid advertisements or otherwise to influence the Board's judgement in the matter." Section 300.2a differs from the presently effective regulation in that it is applicable to rulemaking and nonhearing matters whereas the present rule (§ 300.2(d)) applies only to hearing cases. Section 300.7, which has no counterpart in our present regulation, provides that a party to a proceeding may be required to report its contacts with other governmental agencies designed to obtain the support of such agency for the party or its opposition to another party.

As to comments, Reuben Robertson and the Aviation Consumer Action Project filed a petition for reconsideration. (A later motion to correct a typographical error in this petition is granted.) Other comments were filed by Stephen M. Aug (August 24 and September 15, 1976), Member Carriers of the National Air Carriers Association (Evergreen International Airlines, Inc., McCulloch International Airlines, Overseas International Airways, Inc., Saturn Airways, Inc., Trans International Airlines, Inc., World Airways, Inc.), Saturn Airways, Inc., Overseas National Airways, Inc., Seaboard World Airlines, Inc., and by the Air Transport Association of America on behalf of American Airlines, Braniff Airways, Delta Air Lines, Eastern Air Lines, Frontier Airlines, Hughes Airwest, National Airlines, Northwest Airlines, Ozark Air Lines, Piedmont Aviation, Southern Airways, Texas International Airlines, Trans World Airlines, and Western Air Lines. Subsequently, ATA was authorized to file these comments on behalf of Allegheny Airlines, The Flying Tiger Line, and Wien Air Alaska. Galland, Kharasch, Calkins & Brown, a law firm practicing before the Board, also filed a comment for consideration in connection with both the interim and final regulation.

In the present amendment the Board is declaring it improper for any person interested in a proceeding before the Board to sway the Board's judgment by attempting to bring "pressure or influence" to bear upon any Member of the Board or Board employee. This extends our long-existing rule for hearing cases generally to contested nonhearing and rulemaking matters. It does not change the provisions of the interim regulation set forth in PR-154 in this respect. It is noteworthy that the constitutional ob-

² This provision has been in our regulation for some 15 years. Long ago we recognized that "[t]he line of demarcation between proper and improper use of publicity is an extremely difficult one to fix, and the result to be reached is dependent largely on the inferences to be drawn from a particular course of conduct." Reopened New York-San Francisco Nonstop Service Case, 35 CAB 423, 430 (1962), aff'd sub. nom. *United Air Lines, Inc. v. CAB*, 309 F.2d 238 (D.C. Cir. 1962). See also *West Coast Airlines, "Use It or Lose It"* Case, 46 CAB 243, 249 (1967); *Complaint of Northeast Airlines, Inc. against Eastern Air Lines, Inc.*, 39 CAB 556 (1964). Compare *Acquisition of Los Angeles Airways, Inc.*, 50 CAB 1, 10 (1969); *Reopened Kansas-Oklahoma Local Service Case*, 38 CAB 163, 202 (1963).

jections to this section contained in the comments do not center upon or support the use of "pressure or influence", as they are commonly understood, to sway the judgement of the Board in these new classes of cases.

In response to the comments, however, the provisions of the interim regulation have been changed with respect to the prohibition of statements to the communications media. In this area the amendment withdraws the prohibition in contested nonhearing cases and rule-making. It also strikes § 300.7 from the interim regulation. The interim regulation will thus conform to our presently effective rules in this area.

The amendment makes one other change in § 300.2a to eliminate the constitutional doubts expressed in the comments. By subsection (d) we have made it clear that "[n]othing in this section shall be interpreted as precluding any person interested in a proceeding from communicating with any member of the Congress on any subject." The Board's action with respect to the limitation now placed on communications with the media should not be construed as indicating any final view as to the validity of the constitutional issues raised but only as indicating a disposition to defer decision until full comments are in hand. We invite comments on these changes as well as PR-154 and, further, upon the application of § 300.2a to hearing cases as well.

Another comment made by several persons called attention to the adoption of the Sunshine Act (Pub. L. 94409, 90 Stat. 1241) after the adoption of PR-154 and suggested that since the Sunshine Act established prohibitions against ex parte statements the Board should not deal with the same matters in the interim regulation without first receiving public comments. The Board has reviewed the Sunshine Act and considered the comments and has concluded that no further action need be taken with respect to the interim regulation at this time.

Part 300 has long dealt with prohibited "ex parte" statements in some cases. The interim regulation extends the cases covered by the prohibition and provides for the filing of written ex parte statements and the recordation and filing of oral ex parte statements.² Since the Sunshine Act does not become effective until March 12, 1977, there will be ample time to receive full comments on the relation-

ship of the Sunshine Act to our final regulation pursuant to PDR-41. These comments, and particularly our experience under the interim regulation, will be invaluable to the ultimate resolution of issues presented by the Sunshine Act.

Mr. Stephen M. Aug, a journalist, has suggested that written ex parte statements not only be placed in the file of a matter but also be placed chronologically in a single public file of ex parte statements. We agree that such a file would assist in monitoring activities before the Board at little expense or trouble. Accordingly, we shall amend § 300.2(e) and § 300.4(a) to provide for duplicate filings in a general, chronological, ex parte file to be maintained in the Public Reference Room.

Mr. Aug has also suggested that § 300.4 (d) of the interim regulation be eliminated. That section requires Board employees to report in writing to the Managing Director any request for information or access to records that have not been made public previously. The provision is viewed by the commenter as being designed solely "to keep Board employees in a constant state of fear so they will be unwilling to discuss any matter of any consequence with any member of the news media." This is simply not our intention as the opening paragraph of the preamble to PR-154 makes clear. The provision in question is designed to insure centralization of information as to what is taking place at the Board in this area, and is justified administratively.⁴ Indeed, the disclosure of information by employees is a complex subject and is dealt with at length in § 442 of the CAB Manual, which is publicly available and is not restricted by § 300.4(d) of the interim regulation. We do not plan to alter or eliminate the latter section at this time.

The Member Carriers of the National Air Carrier Association have indicated a need that the Board supplement with specific language in the interim regulation the intention heretofore only expressed in the preamble of PR-154 that "as a preliminary to, during, or as an incident to, negotiations/consultations or in the formulation of U.S. Government positions on international aviation problems full, normal coordination with air carriers or others likely to be affected will go forward as at present without limitation by this part." The Board will amend the interim regulation to set forth the intention previously stated in the preamble. However, the specific language proposed to us is too broad. The amendment adopted by the Board herein will not sanction ex parte statements which urge a position with respect to the merits of a pending Board proceeding, such as a foreign air carrier permit proceeding under section 402 of the Act, unless the issue in question is "directly and unavoidably involved in the pending or prospective intergovernmental negotiations and the communicator's position

with respect to the negotiations cannot be fairly presented without reference to that issue." However, to preserve the integrity of adjudicatory proceedings before the Board we are providing that communications received in such circumstances shall not be considered by the Board in the hearing case unless they are introduced therein in accordance with the Board's Rules of Practice.

Saturn Airways, Inc., and Overseas National Airways, Inc., seek a ruling on the application *vel non* of § 300.2(b) of the regulation to waivers and charter prospectuses. It is their interpretation that § 300.2(b) does not alter the present system whereby such matters are "handled by oral communication, later confirmed in writing, with the staff," particularly technical problems with OTC prospectuses or waivers related to surety bonds, changes in passenger lists and the like. We agree that these are matters of administration not included within § 300.2(a), which states that the section applies to matters "to which a response by any person is authorized by statute or by Board regulation or order." Neither our Rules of Practice nor the charter regulations provides for responses to prospectuses or such waivers. Our current practice with respect to them will not be altered by the interim regulation.

The comment of Galland, Kharasch, Calkins & Brown reaches a contrary conclusion. It interprets the interim regulation as barring all communications between interested persons and the Board and its staff unless the Rules of Practice specifically provide for such communications. It therefore suggests that the Rules of Practice be amended to permit the continuance of informal conferences with Board staff in uncontested nonhearing matters as in the past. As indicated above, such conferences are not prohibited where they do not concern an application or other request where a "response by any person is authorized by statute or by Board regulation or order." Since responses are not authorized in some informal conference cases apparently referred to by the comment they are not governed by Part 300. Nevertheless, in those cases which are covered by Part 300, to assure free communication between the public and the staff, we shall amend § 300.2(a) to clearly provide that the prohibition shall not apply to the classes of cases listed therein, whether the communications are initiated by Board Members or employees or the public.

Saturn, ONA, and Seaboard World Airlines, Inc., also seek a ruling on the application *vel non* of § 300.2(b) to "handling emergency exemption applications to authorize specific flights in air transportation." The view presented is that—

(1) § 300.2(b) prohibits written or oral communications only "when other than in compliance with the Board's Rules of Practice." Since § 302.410 of the Rules of Practice, as interpreted by the Supplementary Services Division and by the [carriers], permits the processing and decision of emergency exemption applications entirely upon oral communications, later confirmed in

² The Sunshine Act prohibits "ex parte communications relevant to the merits of the proceeding" and requires that they be filed publicly. In comparable hearing cases, the Board's interim regulation prohibits communications "on any substantive or procedural issue in a matter" (§ 300.2(b)), but if made must be filed publicly if in writing or, if oral, must be summarized in writing and filed if of "significance," that is, "if it is likely in fact or appearance to affect the outcome of a case." (§ 300.2(e), § 300.4). The Sunshine Act does not prohibit ex parte statements in nonhearing matters. The interim regulation permits many such ex parte statements but requires that they be filed if in writing, or, if oral, recorded and filed in accordance with § 300.4 (a) and (b).

⁴ The function of the centralized reports is not unlike that of the centralized file of ex parte statements requested by the same commenter which was discussed earlier.

writing, the new § 300.2(b) does not modify the rules governing processing and decision of emergency exemptions in this manner.

We agree with this interpretation.⁵

Summarizing with respect to the foregoing interpretations: if there is no provision in the statute, or Board regulation or order for a response to an application, petition, motion, or the like, as was true in the interpretation relating to charter prospectus and enumerated waivers, then Part 300 is not applicable (§ 300.2(a)). If there is a provision for such a response, as was true in the case of the interpretation relating to emergency exemptions (§ 302.410), then the regulation is applicable and the question becomes whether a communication is prohibited under § 300.2(b) or allowed because "provided for by law, published rule, or order."⁶

Finally, we turn to the comments filed by the Air Transport Association of America on behalf of eight trunkline and six local service carriers. First it urges that the Board not implement a "final regulation" until after full consideration of final comments. This, of course, is precisely the procedure proposed by the Board. Second, it suggests that even interim implementation be delayed for consideration of full comments in the absence of any finding of urgency. The Board does not acquiesce in such a course. We found the public interest would be furthered by the course of action we have adopted and that finding has not been factually challenged. Moreover, and of paramount significance, experience with the application of the interim regulation will be of major assistance in settling the final regulation. We shall permit the interim regulation to go into effect. Third, ATA believes the interim regulation will have a chilling effect on "all" communication between Board Members and staff and the public and that the prohibitions are too broad. The Board's intention, plainly expressed in the preamble to the interim regulation, was to preserve appropriate communications with the public and the industry and to limit communications only where they would give rise to unfairness. In this respect the provisions prohibiting communications are generally applicable to contested proceedings and the Sunshine Act now establishes comparable although not identical limitations. As to the alleged excessive breadth of the prohibitions, to a large extent the examples offered are unconvincing, being readily satisfied by reference to the interim regulations, the Board's Rules of Practice, and our comments herein. Two of the examples raise issues which we thought were answered implicitly by § 300.2(b), which sets forth the prohibition against *ex parte* statements. To avoid any ambiguity, we shall amend § 300.2(b) to provide that the

prohibitions against *ex parte* statements with respect to a particular matter terminate upon final disposition of such matter and to make clear that a prohibition is not applicable if the communication is provided for by "Board order" as well as "by law or published rule." Finally, further exceptions to the prohibitions against *ex parte* communications are suggested in applications for exemptions, for suspensions of service, and realignment of routes. But for the most part the prohibitions applicable to these matters have long been in effect. Thus, suspensions of service, if under section 401(g) of the Act, have always required hearings, as have abandonments under section 401(j), and both have been subject to Part 300. On the other hand, temporary suspensions under section 401(j) do not require hearings but, unless contested, are not subject to the prohibition in any event. Somewhat similarly, route realignments require certificate changes under section 401 of the Act and 14 CFR 200 and technically require "hearings." The Board's interim regulation has not broadened Part 300 as to these cases. It is true that exemption cases have been subjected to Part 300 for the first time, unless they are emergency cases. However, in all three classes of cases there is adequate provision in our rules for parties to file, or the Board to secure, needed information without resort to prohibited *ex parte* statements.

Although not raised by the comments, the Board will amend the interim regulation to clarify its treatment of tariff filings and some other language in §§ 300.2(c) and 300.4(b).

Accordingly, 14 CFR Part 300, *Rules of Conduct in Board Proceedings*, as reissued by PR-154, as amended, effective October 25, 1976, is amended as set forth below, effective October 25, 1976:

1. Section 300.2 is amended by amending paragraph (a) to read as follows:

§ 300.2 Prohibited communications.

(a) This section applies to all matters initiated by an application, petition, motion, request, complaint, or other document to which a response by any person is authorized by statute or by Board regulation or order, except that this section shall not apply to communications in the following cases:

2. Paragraph (b) of § 300.2 is amended to read as follows:

(b) In a matter subject to this section, from the time of the filing of the initial document, the filing or receipt of an identifiable and detailed written opposition, or issuance of a relevant Board order, as the case may be, until final disposition of the matter, a written or oral communication by any person not a party, or issuance of a relevant Board employee on any substantive or procedural issue in a matter to any Member

of the Board or Board employee, other than in compliance with the Board's Rules of Practice, shall be deemed a private communication on the merits and as such is hereby prohibited unless otherwise provided for by law, published rule, or order.

3. Paragraph (c) of § 300.2 is amended by striking out the words "at the request of" in the second sentence thereof and substituting therefor the word "to."

4. Paragraph (c) of § 300.2 is amended by adding a sentence at the end of such paragraph as follows:

(c) * * * The prohibition of paragraph (b) shall not prohibit private oral or written communications by interested persons to any Member of the Board or Board employee concerning pending or prospective intergovernmental negotiations relating to foreign air transportation or concerning the position or policy of the United States with respect to international aviation matters. Such communications shall not present or urge any position on any substantive issue in any contested case to be decided after notice and hearing which is pending before the Board unless the issue in question is directly and unavoidably involved in the pending or prospective intergovernmental negotiations and the communicator's position with respect to the negotiations cannot be fairly presented without reference to that issue. In the latter circumstances, no such communication shall be considered by the administrative law judge or the Board in the determination of the hearing case unless it is introduced therein in accordance with the Board's Rules of Practice.

5. Paragraph (e) of § 300.2 is amended by adding a sentence to appear as the third sentence of paragraph (e) as follows:

(e) * * * In addition to all other copies of prohibited communications or memoranda thereof required to be publicly filed hereby, one copy of each shall be filed in chronological order in an "Ex Parte File" to be maintained in the Public Reference Room.

6. Section 300.2a is revised to read as follows:

§ 300.2a Prohibited influence and solicitation.

(a) It is improper that there be any effort by any person interested in a proceeding before the Board to sway the judgment of the Board by attempting to bring pressure or influence to bear upon any Member of the Board or Board employee.

(b) In any case to be determined after notice and hearing and upon a record, it is improper that any person, directly or indirectly, give statements to the communications media, by paid advertisements or otherwise, designed to influence the Board's judgment in the case.

(c) It is improper that any person interested in a proceeding before the Board solicit any other person to make a communication to any Member of the Board or Board employee which is prohibited by these rules of conduct. Any interested person soliciting the support of another person in any Board proceeding shall call

⁵ An "emergency" application usually must be decided within 30 days of filing under § 300.2(a)(3). However, no time limit is specified under § 300.2(a)(5) where the Board finds an emergency.

⁶ This is the language of § 300.2(b) provided for by item number 2, *infra*.

⁷ Normally the "hearing" requirement has been satisfied through show-cause order procedures.

such person's attention to these rules of conduct and to the appropriate provisions of the Rules of Practice, including (in a case to be determined after notice and hearing) Rules 14 and 15.

(d) Nothing in this section shall be interpreted as precluding any person interested in a proceeding from communicating with any member of the Congress on any subject.

7. Paragraph (a) of § 300.4 is amended by replacing the fifth sentence, beginning "Further, a brief written summary" with the following passage:

§ 300.4 Permitted communications.

* * * Further, a brief written summary of any oral statement will be placed in the appropriate public file, except that only Members are required to make such written summary of oral communications in tariff cases where no complaint has been filed and in uncontested non-hearing matters, excluded from § 300.2 by § 300.2(a) (2) and (4). In addition to all other copies of permitted communications or memoranda thereof required to be filed publicly hereby, one copy of each shall be filed in chronological order in an "Ex Parte File" to be maintained in the Public Reference Room. * * *

8. Paragraph (b) of § 300.4 is amended by placing parentheses around the following passage presently in the first sentence: "(other than those from other U.S. Government agencies relating to the conduct of the foreign affairs or the national defense of the United States, or from foreign governments)".

9. Revoke and reserve § 300.7 *Contacts with other government agencies.*

§ 300.7 [Reserved].

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-32102 Filed 11-1-76;8:45 am]

[Reg. PR-159, Amdt. 2; Docket 29626]

PART 300—RULES OF CONDUCT IN BOARD PROCEEDINGS

Amendment Postponing Effectiveness of Reissuance of Part

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., October 15, 1976.

Effective: October 15, 1976.

Adopted: October 15, 1976.

This amendment postpones the effectiveness of the reissuance of Part 300 from October 18, 1976, until October 25, 1976.

By PR-154, adopted August 10, 1976 (41 FR 34587, August 16, 1976), the Board reissued Part 300 of its Procedural Regulations, providing for a substantial revision of the Rules of Conduct in Board Proceedings on an interim basis. The regulation was to become effective on September 30, 1976, with interested persons being afforded an opportunity to file

comments with respect thereto until September 15, 1976.

Pursuant to the foregoing provisions a number of comments were filed. Because the Board could not complete its deliberations with respect to such comments before the scheduled effectiveness of PR-154, the Board postponed its effectiveness to October 18, 1976 (PR-154, 41 FR 43715, October 4, 1976). We have considered the comments and have made some changes in our interim regulation in response thereto. In order to give the public the opportunity to review the changes being made in the interim regulation the Board has determined to postpone the effectiveness of PR-154 from October 18, 1976, to October 25, 1976.

Accordingly, it is ordered that the effectiveness of PR-154, the reissuance of Part 300, Rules of Conduct in Board Proceedings, be and it hereby is postponed from October 18, 1976, to October 25, 1976.

(Sec. 204(a) of the Federal Aviation Act of 1958, as amended, 72 Stat. 743; 49 U.S.C. 1324.)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-32100 Filed 11-1-76;8:45 am]

Title 7—Agriculture

CHAPTER II—FOOD AND NUTRITION SERVICE, DEPARTMENT OF AGRICULTURE

SUBCHAPTER A—CHILD NUTRITION PROGRAMS

[Amdt. No. 2]

PART 246—SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN

Certification and Food Package Requirements

Interim regulations governing the operation of the Special Supplemental Food Program for Women, Infants and Children (WIC Program) were published on January 12, 1976, in the FEDERAL REGISTER (41 FR 1743). This amendment to the interim regulations deletes the requirement of a blood test as part of the certification procedure for infants up to six months of age, prescribes quality and quantity requirements for certain infant foods, and deletes goat's milk as a substitute milk product.

As part of the certification process for determining a potential WIC recipient's eligibility for the Program, a hemoglobin or hematocrit test is required to be performed if the necessary equipment is available. It has been found, however, that in the case of infants under six months of age the hemoglobin or hematocrit test results are inconclusive as a determinant of nutritional status. Therefore, the requirement for the performance of a hemoglobin or hematocrit test for infants up to six months of age is deleted.

It has also been found desirable to prescribe specifications for infant juice. Infant juice used in the Program shall contain a minimum of 30 milligrams of vitamin C per 100 milliliters.

The regulations now specify that powdered iron-fortified infant formula may be substituted at the maximum rate of one pound per 58 fluid ounces of concentrated formula. This substitution rate does not supply an adequate amount of some of the powdered formulas. In order to provide for a sufficient amount of powdered iron-fortified infant formula and the comparable nutritive value with this product as with the liquid variety, the regulations are amended to authorize substitution of a maximum of eight pounds per 403 fluid ounces of concentrated formula per infant per month.

In the interim regulations, fortified goat's milk is stated to be an acceptable milk product for children and pregnant or lactating women participating in the WIC Program. Since it is found that fortified goat's milk is not available, specific reference to the use of goat's milk is deleted.

Since it is desirable that these changes be effected as soon as possible to aid in carrying out the purpose of the WIC Program as specified in section 17(a) of the Child Nutrition Act of 1966, as amended, notice and public rulemaking procedures are found to be contrary to the public interest. Therefore, this amendment will become effective on the date specified.

Accordingly, the regulations are amended as follows:

1. In § 246.6, paragraph (a) (3) (ii) is revised to read as follows:

§ 246.6 Eligibility of persons.

- (a) * * *
- (3) * * *

(ii) A hemoglobin or hematocrit test shall be performed on all women and children, and all infants six months of age and over, if the necessary equipment is available.

2. In § 246.7, paragraph (a) (2) (i) is amended by deleting the words "(from cow or goat)" wherever they appear.

3. In § 246.7, paragraph (a) (1) (iii) is revised, and the iron-fortified infant formula item of the schedule in paragraph (b) is amended, as follows:

§ 246.7 Supplemental foods.

- (a) * * *
- (1) * * *

(iii) Single strength fruit juice which contains a minimum of 30 milligrams of vitamin C per 100 milliliters; or concentrated fruit juice which contains a minimum of 30 milligrams of vitamin C per 100 milliliters of reconstructed juice; or infant juice which contains a minimum of 30 milligrams of vitamin C per 100 milliliters.

- (b) * * *

"made from rum (or gin or brandy)" conveys to the consumer the impression that only rum (or gin or brandy) is used in the product and that other distilled spirits are not present. Likewise a product labeled "rum liqueur" would also convey the impression that only rum and no other type of spirits is present in the product.

Three comments noted that the standards of identity for rye liqueur and bourbon liqueur require a minimum of only 51 percent of those respective whiskies. The Bureau would point out, however, that those standards were adopted in 1948. Since then the Bureau has become more aware of the consumer's need to be informed about the product he or she is consuming. It is probable that if standards of identity were today being considered for rye and bourbon liqueurs, the Bureau would require them to be made entirely from rye or bourbon whisky. As an example of this trend, standards of identity for flavored products adopted in 1968, require them to contain a spirits base of 100 percent gin, rum, vodka, etc.

Conclusion. The proposal to require the distilled spirits component for rum, gin, or brandy liqueurs to be composed entirely (100 percent) of rum, gin, or brandy is adopted. The Bureau also notes it plans to reconsider the alcoholic base percentage requirement for rye liqueur and bourbon liqueur and, if warranted, may issue at some future date a notice of proposed rulemaking to modify the standards of identity of these products.

Issue 2. Require no minimum bottling proof for rum, gin, or brandy liqueurs. The proposal established a 60° minimum proof for bottling.

Findings. The proposed liqueurs differ from other cordials and liqueurs in that their characteristic flavor is derived from the distilled spirits component rather than from added flavoring ingredients. A special emphasis is placed on the distilled spirits since the name of the spirit becomes a predominant part of the product's class and type designation (i.e., brandy liqueur). For these reasons, rum, gin, or brandy liqueurs convey to the consumer an impression of a product more closely associated with a particular class of distilled spirits than do other cordials or liqueurs which are not readily identifiable with a particular distilled spirit. The Bureau has previously emphasized the higher proof of products closely associated with a particular class and type of distilled spirit by requiring certain minimum bottling proofs. For example, rye or bourbon liqueurs must be bottled at not less than 60° proof, and flavored rums, gins, brandies, vodkas, or whiskies must be bottled at not less than 70° proof.

Conclusion. The proposal to require a minimum bottling proof of 60° is adopted without change.

Issue 3. Extend the proposed standards of identity to include any distilled spirit having a recognized class and type

designation in the standards of identity (Canadian whisky liqueur, vodka liqueur, Tequila liqueur, etc.). The proposal only included standards for rum, gin, and brandy liqueur.

Findings. With the exception of vodka, most other standards of identity are distinctive products of a geographical area, for example, Canadian whisky, Irish whisky, or Tequila. The Bureau does not feel it appropriate to designate any of these products as "cordials" or "liqueurs" without first issuing proposed regulations to permit all interested parties, especially concerned foreign governments, the opportunity to comment on them. Moreover, no decision has been made as to whether the Bureau will issue a notice of proposed rulemaking addressing this issue.

Various types of whisky liqueurs were suggested for inclusion in the standards of identity. Several whiskies such as Scotch whisky or Irish whisky are distinctive foreign products and are not being adopted for reasons outlined above. The Bureau also notes that standards of identity now exist for rye liqueur and bourbon liqueur; these are liqueurs made from rye and bourbon whiskies. Addition of "rye whisky liqueur" and "bourbon whisky liqueur" would, therefore, be unnecessary and confusing to the consumer. "Blended whisky liqueur" could not conform to the requirements of the proposed standard of identity since the distilled spirits component would consist of a varying percentage of straight whisky, other whisky, and neutral spirits rather than being composed entirely of a single class of distilled spirits as proposed.

Two comments specifically requested "vodka liqueur." The Bureau notes that vodka by definition is without distinctive character, aroma, taste, or color; thus the distilled spirits used would contribute little if any flavor to the liqueur. The proposed standard of identity for rum liqueur, gin liqueur, and brandy liqueur specifies that these liqueurs would derive their predominant characteristic flavor from the distilled spirits used. Since vodka contributes no flavor to the liqueur, a "vodka liqueur" would be inconsistent with the proposed standards of identity. The Bureau, therefore, is not adding "vodka liqueur" to those proposed. The Bureau might consider proposing a separate standard of identity for "vodka liqueur" at some future date.

Conclusion. The proposal to add a standard of identity for rum, gin, and brandy liqueur is adopted without the addition of any other type of liqueur.

Designation of brandy liqueurs. Although no comments were specifically directed toward the designation of brandy liqueurs, the Bureau feels that additional information concerning the type of brandy used should be stated on labels of brandy liqueur. Brandy, unlike rum or gin, is further subdivided into several types; they are: fruit brandy, Cognac, dried fruit brandy, lees brandy,

pomace brandy, residue brandy, neutral brandy, and substandard brandy. Each type of brandy possesses different characteristics which would enable the consumer to make an informed selection on the basis of taste, aroma, etc.; moreover, some types, especially residue and neutral brandies, are not generally considered beverage products.

In the interest of consumer information, the Bureau feels it is desirable to specify the type of brandy used on the liqueur label. Therefore, the standard of identity for brandy liqueur is further amended to require the brandy type to be stated as part of the product designation. For example, a liqueur made entirely from apple brandy would be designated "apple brandy liqueur." A liqueur made entirely from grape brandy would be designated simply "brandy liqueur" since the terms brandy and grape brandy are generally synonymous.

Text of regulations. In view of the foregoing, 27 CFR 5.22 is amended by redesignating paragraphs (h) (4) and (5) as paragraphs (h) (5) and (6), and by adding a new paragraph (h) (4) which prescribes standards of identity for rum, gin, and brandy liqueurs. As amended, § 5.22 reads as follows:

§ 5.22 The standards of identity.

(h) Class 8; cordials and liqueurs. * * *

(4) "Rum liqueur," "gin liqueur," "brandy liqueur," are liqueurs, bottled at not less than 60 proof, in which the distilled spirits used are entirely rum, gin, or brandy, respectively, and which possess, respectively, a predominant characteristic rum, gin, or brandy flavor derived from the distilled spirits used. In the case of brandy liqueur, the type of brandy must be stated in accordance with § 5.22 (d), except that liqueurs made entirely with grape brandy may be designated simply as "brandy liqueur." Wine, if used, must be within the 2½ percent limitation provided for in § 5.23 for harmless coloring, flavoring, and blending materials.

(5) The designation of a cordial or liqueur may include the word "dry" if the sugar, dextrose, or levulose, or a combination thereof, are less than 10 percent by weight of the finished product.

(6) Cordials and liqueurs shall not be designated as "distilled" or "compound."

(Sec. 5, Federal Alcohol Administration Act (49 Stat. 981, as amended (27 U.S.C. 205)).)

This Treasury decision shall become effective on January 1, 1977.

Signed: October 5, 1976.

REX D. DAVIS,
Director.

Approved: October 22, 1976.

JERRY THOMAS,
Under Secretary of the Treasury.

[FR Doc.76-32088 Filed 11-1-76;8:45 am]

Title 49—Transportation

SUBTITLE A—OFFICE OF THE SECRETARY OF TRANSPORTATION

[OST Docket No. 1; Amdt. 1-122]

PART 1—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Delegation Under the Airport and Airway Development Act Amendments of 1976

The purpose of this amendment is to delegate to the Federal Aviation Administrator certain functions vested in the Secretary by the Airport and Airway Development Act Amendments of 1976 (Pub. L. No. 94-353).

Since this amendment relates to Departmental management, procedures, and practices, notice and public procedure thereon are unnecessary and it may be made effective in fewer than 30 days after publication in the *FEDERAL REGISTER*.

In consideration of the foregoing, paragraph (f) of § 1.47 of Part 1 of title 49, Code of Federal Regulations, is revised to read as follows:

§ 1.47 Delegations to Federal Aviation Administrator.

The Federal Aviation Administrator is delegated authority to—

(f) Carry out the functions vested in the Secretary by—

(1) The Airport and Airway Development Act of 1970, as amended (49 U.S.C. 1701 et seq.), except sections 3 and 4 (49 U.S.C. 1702, 1703).

(2) Sections 208 and 209 of the Airport and Airway Revenue Act of 1970, as amended (49 U.S.C. 1742, 1742 note).

(3) Sections 21, 22, 23(b), 24, and 25 of the Airport and Airway Development Act Amendments of 1976 (49 U.S.C. 1346(a), 1348 note, 1713 note, 1356a, 1704).

Effective date: This amendment is effective November 2, 1976.

(Sec. 9(e), Department of Transportation Act, 49 U.S.C. 1657(e).)

Issued in Washington, D.C., on October 27, 1976.

WILLIAM T. COLEMAN, Jr.,
Secretary of Transportation.

[FR Doc.76-32034 Filed 11-1-76;8:45 am]

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Amdt. No. 10 to S.O. No. 1102; Service Date Oct. 28, 1976]

PART 1033—CAR SERVICE

Delaware and Hudson Railway Company and Consolidated Rail Corporation Authorized to Assume Joint Supervisory Control Over Railroad Operations of Albany Port District Commission, Albany, New York

At a session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of October, 1976.¹

¹ By the Commission, Railroad Service Board, Members Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne.

Upon further consideration of Service Order No. 1102 (37 FR 13697, 28634; 38 FR 17843, 33086, 33302; 39 FR 18655, 41853; 40 FR 24005 and 55860; 41 FR 15414 and 22067), and good cause appearing therefor:

It is ordered, That § 1033.1102 Service Order 1102 Delaware and Hudson Railway Company and Consolidated Rail Corporation authorized to assume joint supervisory control over railroad operations of Albany Port District Commission, Albany, New York: Service Order No. 1102 be, and it is hereby, amended by substituting the following paragraph (e) for paragraph (e) thereof:

(e) Expiration date: This order shall expire at 11:59 p.m., April 30, 1977, unless otherwise modified, changed, or suspended by order of this Commission.

Effective date: This amendment shall become effective at 11:59 p.m., October 31, 1976.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17(2). Interprets or applies Secs. 1(10-17), 15(4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17(2).)

It is further ordered, That a copy of this amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association; and that notice of this amendment be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-32091 Filed 11-1-76;8:45 am]

[S.O. No. 1254; Service Date Oct. 28, 1976]

PART 1033—CAR SERVICE

Vermont Northern Railroad Company Authorized To Operate Over Tracks Owned by State of Vermont and Formerly Operated by St. Johnsbury & Lamoille County Railroad

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 27th day of October, 1976.

It appearing that the State of Vermont (State) owns 99.4 miles of railroad extending between St. Johnsbury, Vermont and Swanton, Vermont; that the contract between the State and the St. Johnsbury & Lamoille County Railroad (St. J & LC) expired September 18, 1976; that an attempt by the State to negotiate an extension of the operating agreement with St. J & LC through June 30, 1977, was unavailing; that operations by the St. J & LC terminated on October 4, 1976, and since that time no rail service has been provided to the numerous shippers

on the line who require and are dependent upon rail service; that the State has designated the Vermont Northern Railroad Company (VTN) as its agent to operate this line and has entered into an operating agreement with the VTN to commence immediate operation of this line upon obtaining appropriate authority from this Commission to do so pending disposition by the Commission of applications for permanent authority; that the State has obtained an order from the Washington Superior Court of the State of Vermont temporarily restraining St. J & LC from in any way interfering with operations of VTN pursuant to its operating agreement with the State; that representatives of the affected rail labor organizations have urged the Commission to authorize the immediate commencement of operations by VTN; that the waiver of compliance with track standards under which the line has been operated in the past has been recently extended by the Federal Railroad Administration so as to permit operations thereunder by any responsible operator designated by the State; that St. J & LC opposes authorizing VTN to commence operating over the line on the grounds that it desires to continue to do so; that immediate resumption of operations over the aforementioned line owned by the State is urgently necessary in the interest of the public and the commerce of the people; that under the presently existing state of affairs the only entity capable of immediately commencing operations is the VTN; that notice and public procedure herein are impracticable and contrary to the public interest; and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1254 Vermont Northern Railroad Company Authorized To Operate Over Tracks Owned by State of Vermont and Formerly Operated by St. Johnsbury & Lamoille County Railroad.

(a) The Vermont Northern Railroad (VTN) be, and it is hereby authorized to operate over tracks owned by the State of Vermont (State), between St. Johnsbury, Vermont, and Swanton, Vermont, formerly operated by the St. Johnsbury & Lamoille County Railroad (St. J & LC), together with all necessary auxiliary tracks, spurs, etc., a total distance of 99.4 miles, pending disposition by the Commission of applications in Docket AB-134 and in Finance Docket No. 28320 and without prejudice to the rights of any party as they may be developed upon the record in those proceedings.

(b) As compensation for its service in transporting cars over the tracks of the State and formerly operated by the St. J & LC, the VTN shall assess and collect and retain all lawful switching and accessorial charges due under the applicable tariffs of the St. J & LC, regardless of whether such charges are paid by the shipper or absorbed by other carriers until tariffs providing rates and charges applicable via the VTN become effective.

(c) *It is further ordered*, That St. Johnsbury & Lamoille County Railroad Embargo No. 1-76, issued by the St. J & LC on October 5, 1976, and published on Association of American Railroads Embargo Sheets Nos. 215 and 217, dated October 5 and 7, respectively, is hereby declared to be Embargo No. 1-76 of the VTN until cancelled or amended by the VTN.

(d) *Application*. The provisions of this order shall apply to intrastate, interstate, and foreign traffic.

(e) *Effective date*. This order shall become effective at 12:01 a.m., October 28, 1976.

(f) *Expiration date*. The provisions of this order shall expire at 11:59 p.m., January 15, 1977.

(Secs. 1, 12, 15, and 17(2), 24 Stat. 379, 383, 384, as amended; 49 U.S.C. 1, 12, 15, and 17 (2). Interprets or applied Secs. 1(10-17), 15 (4), and 17(2), 40 Stat. 101, as amended, 54 Stat. 911; 49 U.S.C. 1(10-17), 15(4), and 17 (2).)

It is further ordered, That copies of this order shall be served upon the Association of American Railroads, Car Service Division, as agent of the railroads subscribing to the car service and car hire agreement under the terms

of that agreement, and upon the American Short Line Railroad Association; and that notice of this order shall be given to the general public by depositing a copy in the Office of the Secretary of the Commission at Washington, D.C., and by filing it with the Director, Office of the Federal Register.

ROBERT L. OSWALD,¹
Secretary.

[FR Doc.76-32090 Filed 11-1-76;8:45 am]

¹By the Commission, Railroad Service Board, members Joel E. Burns, Lewis R. Teeple, and Thomas J. Byrne.

proposed rules

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Parts 3500 and 3510]

LEASING OF MINERALS OTHER THAN OIL AND GAS AND PROSPECTING PERMITS

Coal Leases

This notice proposes several amendments to Title 43 of the Code of Federal Regulations necessitated by the Federal Coal Leasing Amendments Act of 1975, 90 Stat. 1038, which became law on August 4, 1976. Proposed amendments relating to exploration licenses, diligent development, commercial quantities, logical mining units, and the Energy Minerals Activity Recommendation System (EMARS) have been or will be published in separate notices. The amendments proposed in this notice are intended to fill the gaps left by the other notices of proposed rulemaking.

Interested persons are invited to submit their comments in writing to the Director, Bureau of Land Management, Department of the Interior, Washington, D.C. 20240, on or before December 13, 1976.

Under the authority granted by section 32 of the Mineral Leasing Act, 30 U.S.C. 189, it is proposed that 43 CFR Subparts 3500, 3501, 3502, 3503, 3505, 3511, and 3524 be amended as follows:

1. 43 CFR 3500.05 is amended by adding paragraphs (h) and (i) to read as follows:

§ 3500.0-5 Definitions.

(h) *Public Bodies*. Public bodies are Federal and State agencies, municipalities, and rural electric cooperatives, and non-profit corporations controlled by any of foregoing entities.

(i) *Government entities*. Governmental entities are Federal and State agencies, municipalities and subdivisions thereof, including any corporation primarily acting as an agency or instrumentality of a State, which produces electrical energy for sale to the public.

2. 43 CFR 3501.1-4 paragraph (b) (1) (i) and (ii) are revised to read as follows:

§ 3501.1-4 Acreage limitations.

(b) * * *

(1) *Coal*. (i) No person, association, or corporation, or any subsidiary, affiliate, or persons controlled by or under common control with such person, association, or corporation shall take, hold, own or control at one time Federal coal

leases or permits on an aggregate of more than 46,080 acres in any one State, and in no case on an aggregate of more than 100,000 acres in the United States.

(ii) No person, association, or corporation holding, owning or controlling Federal coal leases or permits (by itself or through any subsidiary, affiliate, or person under common control with it) on an aggregate of more than 100,000 acres in the United States on August 4, 1976, shall be required to relinquish any lease or permit which it held on that date, but it shall not be permitted to take, hold, own or control any further Federal coal leases or permits until such time as its holding, ownership, or control of Federal leases or permits has been reduced below an aggregate of one hundred thousand acres within the United States.

3. 43 CFR 3501.1-5 is revised to read as follows:

§ 3501.1-5 Exceptions.

(a) *All leaseable minerals except coal*. No lands within the boundaries of the following areas in the public domain shall be leased under the provisions of this Part:

- (1) National parks and monuments.
- (2) Indian reservations.
- (3) Incorporated cities, towns, and villages.
- (4) Naval petroleum and oil shale reserves.

(5) Lands acquired under the act of March 1, 1911 (36 Stat. 961; 16 U.S.C. 513-519) known as the Appalachian Forest Reserve Act, or other acquired lands.

(b) *Coal*. No coal leasing shall be permitted on the public domain within the areas set forth in 43 CFR 3525.4.

4. 43 CFR 3501.2-1 is revised to read as follows:

§ 3501.2 Acquired lands.

§ 3501.2-1 Lands and deposits not subject to leasing.

(a) *All leaseable minerals except coal*. The following acquired lands are not subject to leasing:

- (1) Lands acquired for the development of their mineral deposits;
- (2) Lands acquired by foreclosure or otherwise for resale;
- (3) Lands acquired as surplus under the Surplus Property Act of October 3, 1944 (58 Stat. 765; 50 U.S.C. 1611, et seq.);
- (4) Lands in incorporated cities, towns, and villages;
- (5) Lands in national parks and monuments; and

(6) Lands which are tide lands or submerged coastal lands within the Continental Shelf adjacent or littoral to any part of land within the jurisdiction of the United States.

(b) *Coal*. No coal leasing shall be permitted on acquired lands within the areas set forth in 43 CFR 3525.4.

5. 43 CFR 3502.9 is amended to read as follows:

§ 3502.9 Public Bodies.

§ 3502.9-1 Coal.

(a) To obtain a coal lease on a tract set aside pursuant to 30 U.S.C. 201(a) a public body must submit:

- (1) Evidence of the manner in which it is organized;
- (2) Evidence that it is authorized to hold a lease or permit;
- (3) Evidence that the action proposed has been duly authorized by its governing body; and

(4) A definite plan to produce energy solely for its own use or for sale to its members or customers (except for short-term sales to others).

(b) To obtain a license to mine coal pursuant to 30 U.S.C. 208, a municipality must submit:

- (1) Evidence of the manner in which it is organized;
- (2) Evidence that it is authorized to hold a license; and
- (3) Evidence that the action proposed has been duly authorized by its governing body.

(c) To obtain a coal lease pursuant to 30 U.S.C. 352 on a tract of acquired lands set apart for military or naval purposes, a governmental entity must submit:

- (1) Evidence of the manner in which it is organized, including the state in which it is located;
- (2) Evidence that it is authorized to hold a lease;

(3) Evidence that the action proposed has been duly authorized by its governing body; and

(4) Evidence that it is producing electricity for sale to the public.

(d) Where the material required in paragraphs (a), (b) and (c) of this section has previously been filed, a reference by serial number to the record in which it has been filed, together with a statement as to any amendments, will be accepted.

6. 43 CFR Subpart 3503 is amended by adding a new § 3503.3-3 to read as follows:

§ 3503.3-3 Coal.

(a) A coal lease shall require payment of a royalty of not less than 12½ per

centum of the value of the coal removed from a surface mine.

(b) A coal lease shall require payment of a royalty of not less than 12½ per centum of the value of the coal removed from an underground mine, except that the authorized officer may determine a lesser amount if conditions warrant.

(c) The value of coal removed from a mine is defined for royalty purposes in 30 CFR 211.63.

§§ 3505.1-1, 3505.2, and 3505.2-1 through 3505.2-4 [Reserved].

7. 43 CFR Subpart 3505 is amended by revoking and reserving §§ 3505.1-1, 3505.2, 3505.2-1, 3505.2-2, 3505.2-3, and § 3505.2-4.

§§ 3511.2-1 and 3511.4-4 [Amended].

8. 43 CFR Subpart 3511 is amended by revoking and reserving paragraph (b) (1) of § 3511.2-1(b) (1) and § 3511.4-4.

§ 3524.1-1 [Reserved].

9. 43 CFR Subpart 3524 is amended by revoking and reserving § 3524.1-1.

10. 43 CFR 3524.2-1 is amended to read as follows:

§ 3524.2-1 Coal.

(a) *Application.* A lessee may obtain modification of his lease to include coal lands or coal deposits contiguous to those embraced in his lease if the authorized officer determines that it would be in the interest of the United States to do so. In no event shall the total area added by such modifications to an existing coal lease exceed one hundred sixty acres or the same number of acres as that in the original lease. The lessee shall file his application for modification in duplicate in the proper land office, describing the additional lands desired, and the needs and reasons for and the advantage to the lessee of such modification.

(b) *Availability—(1) Noncompetitive.* Upon determination by the authorized officer that the modification is justified and that the interest of the United States is protected, the lease will be modified without competitive bidding to include such part of the land or deposits as he shall prescribe.

(2) *Competitive.* If it is determined that the additional lands or deposits can be developed as part of an independent operation or that there is a competitive interest in them, they will be offered as provided in Subpart 3520.

(c) *Terms and conditions.* Before a lease is modified under paragraph (a) or (b) of this section, the lessee shall file his written acceptance of the conditions imposed in the modified lease and the written consent of the surety under the bond covering the original lease to the modification of the lease and to extension of the bond to cover the additional land.

Dated: October 22, 1976.

WILLIAM W. LYONS,
Deputy Under Secretary,
U.S. Department of the Interior.

[FR Doc. 76-32016 Filed 11-1-76; 8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Part 121]

[Docket No. 76F-0362]

FOOD ADDITIVES

Deletion of a Tolerance for a Modified Starch Used in the Manufacture of Paper and Paperboard

Correction

In FR Doc. 76-27665 appearing at page 41435, in the issue of Wednesday, September 22, 1976, in the first column on page 41436 in § 121.2508(a) (2) (ii) under the heading "Limitations," the second line should read: "tion aid and dry strength."

[21 CFR Part 452]

[Docket No. 76N-0399]

ERYTHROMYCIN pH DETERMINATION

Sample Preparation Method

The Food and Drug Administration (FDA) is proposing to amend the antibiotic drug regulations to revise the sample preparation method used to determine the pH of erythromycin. Interested persons have until January 3, 1977, to submit comments.

The Commissioner of Food and Drugs has evaluated a request submitted in accordance with the antibiotic drug regulations promulgated under section 507 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 357), as amended, regarding a revised sample preparation method used to determine the pH of erythromycin.

One manufacturer of erythromycin has reported that when the pH of this drug is tested by the method specified in the regulations, the pH drifts downward with time, leveling off after several hours. On further study, the drift in pH was determined to be the result of precipitation of the less soluble erythromycin base dihydrate. It was also determined that the concentration of the drug has an effect on the crystallization of the insoluble salts and that these salts at certain concentrations are soluble in methyl alcohol.

In order to attain a stable pH, the manufacturer requested that the sample preparation method designated in the regulations for erythromycin be revised to specify a definite final concentration of 2 milligrams of erythromycin base per milliliter in the test solution and that methyl alcohol be used to dissolve the drug.

The FDA National Center for Antibiotics Analysis confirmed the drift in pH and observed that different pH values are obtained depending on whether the solution being tested is stirred or is at rest at the time of measurement. A stable pH was obtained very quickly for the stirred solution, while the solution at rest did not reach the stable value for 5 minutes. Similar variables were also

noted for erythromycin produced by other manufacturers. Therefore, it is also proposed that the regulations for erythromycin be amended to require that the test solution be stirred during the pH determination.

The Commissioner has concluded that the proposed amendments are not a major Federal action significantly affecting the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969 (83 Stat. 853 (42 U.S.C. 4332)). Consequently, the Commissioner finds that a detailed environmental impact assessment is not required. At this time, the Commissioner sees no possible environmental impact from this proposed action. The Commissioner has also considered the inflation impact of the proposed regulation, and no major inflation impact has been found, as defined in Executive Order 11829, OMB Circular A-107 and the Guidelines issued by the Department of Health, Education, and Welfare. A copy of the inflation impact assessment is on file with the Hearing Clerk, Food and Drug Administration.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357)) and under authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (41 FR 24262)), the Commissioner proposes to amend Part 452 by revising § 452.10(b) (4) to read as follows:

§ 452.10 Erythromycin.

(b) * * *

(4) *pH.* Proceed as directed in § 436.202 of this chapter, except standardize the pH meter with pH 7.0 and pH 10.0 buffers and prepare the sample as follows: Dissolve 200 milligrams of sample in 5.0 milliliters of reagent grade methyl alcohol in 150-milliliter beaker. Add 95 milliliters of water and mix. Stir the solution on a magnetic stirrer with a stirring bar of a size approximately 50 percent of the beaker's diameter and at a rate between 600 and 700 revolutions per minute. After one-half minute has elapsed, measure the pH while continuing stirring.

Interested persons may, on or before January 3, 1977, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments (preferably in quintuplicate and identified with the Hearing Clerk docket number found in brackets in the heading of this document) regarding this proposal. Received comments may be seen in the above office during working hours, Monday through Friday.

(Sec. 507, 59 Stat. 463, as amended (21 U.S.C. 357).)

Dated: October 22, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner
for Compliance.

[FR Doc. 76-31826 Filed 11-1-76; 8:45 am]

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

[49 CFR Part 218]

[Docket No. RSOR-3, Notice 4]

RAILROAD OPERATING RULES

Rolling Equipment

On March 15, 1976, the Federal Railroad Administration issued Part 218 of Title 49 of the Code of Federal Regulations. Subpart B of these regulations governs the protection of railroad workmen engaged in inspection, testing, repair and servicing activities which require them to work on, under or between railroad rolling equipment. This type of protection is known within the railroad industry as "blue flag" or "blue signal" protection. Since the effective date of these regulations, the FRA has received several inquiries, as well as formal waiver petitions, concerning their application to specific operating practices. As a result of the review of these inquiries and petitions, the FRA has decided to amend part 218 in order to define more clearly the intended applicability of the rules with respect to certain railroad operations.

In addition, this notice proposes to amend the existing requirements of Subpart B of 49 CFR 218 so as to incorporate the requirements of section 5(b) of the Federal Railroad Safety Authorization Act of 1976, Pub. L. 94-348, that was enacted on July 8, 1976. Section 5(b) of that Act amends the Federal Railroad Safety Act of 1970 (49 USC 431) so as to require the Secretary of Transportation to issue such rules as may be necessary to require that, "in any case in which activities of railroad employees (other than train or yard crews) assigned to inspect, test, repair or service rolling equipment require such employees to work on, under or between such equipment, each manually operated switch, including any crossover switch, providing access to the track on which such equipment is located must be lined against movement to that track and secured by an effective locking device which may not be removed except by the class or craft of employees performing such inspection, testing, repair, or servicing" (Federal Railroad Safety Authorization Act of 1976, Pub. L. 94-348).

Since the promulgation of a regulation requiring the locking of manually operated switches in conjunction with the use of blue signal protection is specifically required by the provisions of section 5(b) of the Federal Railroad Safety Authorization Act of 1976, that portion of this rulemaking does not require an evaluation of the regulatory impact of the proposed rule in accordance with the policies of the Department of Transportation as stated in the FEDERAL REGISTER (41 FR 16200, April 16, 1976).

The remaining provisions of this notice are proposed in response to a number of questions as to the applicability of the present blue signal regulation to specific

areas of railroad operation. As such, they constitute clarifying amendments that will not alter in any significant fashion the costs or benefits associated with the existing regulation. Therefore, the Administrator has determined that the proposal of these amendments will have a minimal impact, and that an evaluation of the regulatory impact of the amendments is not warranted.

Under the existing regulation, blue flag protection must be provided whenever workmen assigned to inspect, test, repair or service railroad rolling equipment are required to work on, under or between the equipment. The definition of "workmen" expressly excludes train or yard crews. The FRA believes that this exclusion is justified inasmuch as members of a train or yard crew are in control of the movement of their own equipment through communication with each other by use of radio or hand signals.

The purpose of this regulation is to alert those engaged in the movement of equipment, who would otherwise not know, of the fact that employees are on, under or between equipment. Therefore, it is not necessary to apply the regulation or this amendment to situations where the employees engaged in the work are in close and continuous contact with those capable of moving that equipment. Moreover, such a requirement would pose a substantial burden on train operations that is not warranted by available safety data.

Recently, a major railroad employee organization has brought to the attention of FRA the fact that, at several locations, work traditionally performed by workmen included within the scope of part 218 has been transferred to train or yard crew members for whom similar blue flag protection is not required. While FRA continues to believe in the validity of the rationale for the original exclusion of train and yard crews, it is not our intention to provide a loophole by which the requirement to provide blue flag protection where needed for the safety of railroad employees can be evaded. Therefore, the FRA is proposing an amendment to the definition of workmen contained in § 218.5(a) to clarify the intent and scope of the train and yard crew exemption. Where train or yard crew personnel are assigned to inspect, test, repair or service equipment which is not part of the train or yard movement to which they are assigned as operating crew members, the exemption will not apply and full blue flag protection as prescribed in part 218 will be required. Under such circumstances, these employees will occupy positions similar to those occupied by carmen and will perform similar activities. FRA believes there is a need to provide these employees with the same protections as are provided for other employees performing similar duties.

A proposed new § 218.5(d), has been added to the regulation in order to define the "effective locking device" that is required by the statutory mandate of the Federal Railroad Safety Authorization

Act of 1976. The intent of the statutory mandate was to prevent movement of rolling equipment onto a track which is occupied by workmen who are performing activities which require them to be on, under or between equipment already on the track. This is accomplished by lining the switches controlling access to that track against such a movement. The additional requirement that the switch be locked once lined in that position will assure against inadvertent relining of the switch, or tampering by unauthorized personnel, be they other railroad employees or trespassers. For this reason FRA believes the locking device must be vandal resistant and tamper-proof, and must be locked and unlocked only by the class or craft of employees that applies the lock.

It is proposed to amend the general provisions of § 218.23(a) and (b), prescribing blue signal display, to provide for the exceptions permitting the limited movement of equipment under blue signal protection which is proposed in new § 218.25(f), (g) and (h).

Section 218.25(a) proposes an amendment which will provide for the locking of manually operated switches on track other than hump yard track as required by the Federal Railroad Safety Authorization Act of 1976. Whenever workmen are working on, under or between rolling equipment on such track, each manually operated switch providing access to that track, including cross over switches, must be lined against movement to that track and locked with an effective locking device as defined in § 218.5(d). It is the intent of this provision that those manual switches which provide access to the ends of the rolling equipment on which work is being performed must be lined and locked to divert other movements away from the ends of that equipment. This requirement includes a crossover switch that provides access to the exposed ends of rolling equipment, but would not include switches that are occupied by the rolling equipment that is under blue signal protection. FRA understands that this end-to-end protection is in accordance with the historical industry application of blue signal practices.

The FRA recognizes that the intent of the statutory mandate was to assure against the unauthorized or inadvertent movement of rolling equipment while workmen are on, under or between the equipment. We also recognize that, in some circumstances, the lining and locking of manually operated switches as required by the proposed § 218.25(a) may unduly restrict the efficient utilization of railroad facilities. The FRA believes that the statutory intent can be complied with, and equal protection for the workmen can be provided by the use of a derail, provided it is adequately secured and is locked in the derailing position with an effective locking device, in lieu of locking the manually operated switches. A new provision, § 218.25(b), proposes to incorporate this alternate method of compliance with the locking requirement.

As a result of numerous inquiries the FRA has reviewed the question of the

application of the blue flag requirements within locomotive servicing and car repair track areas. The nature of the operations carried out within each of these areas differs from the type of operations generally associated with blue signal protection. In each case all activities within the area, including the movement of the equipment itself, are under the authority and control of a single department—the mechanical department or car department. Alternative safety procedures are generally established and enforced by the department in control to assure that workmen are not endangered by the unexpected or unauthorized movement of equipment. The operations carried out within these areas of necessity require frequent repositioning of equipment within the area, as well as frequent moving of equipment onto and off of the track within the area. In addition, in locomotive servicing areas, many of the activities actually performed by the workmen, such as watering, sanding, fueling and certain visual inspections, do not require them to position themselves on, under or between the equipment. This work often involves only the attaching of a hose to a fitting or outlet on the outer housing of the locomotive. Car repair areas are protected by blue signals at the entrance and departure switches. Cars within the car repair area are generally moved by a car puller or car mover which is operated at a well controlled speed by an authorized employee under the immediate supervision of the employee in charge of the workmen.

Because of the nature of the operations within these servicing and repair areas, the FRA believes that special provisions for application of the blue flag rules can be provided without jeopardizing the safety of workmen. Therefore, four new subsections to § 218.25 are proposed in this notice to address blue flag requirements on locomotive servicing tracks and car repair tracks.

Section 218.25(e) prescribes the proposed requirements for display of blue flags within a designated locomotive servicing area. Manually operated switches providing access to the area must be lined against movement, secured by an effective locking device and a blue flag or signal must be placed at the switch and on the controlling locomotive in a location where it is readily visible to an operator or engineman.

Section 218.25(f) prescribes the proposed procedures by which movements may be made on to and off of tracks within the designated locomotive servicing area without the necessity of removing all blue flags within the area. A locomotive can be moved onto such tracks under these provisions only after an employee of the crafts or class of workmen who displayed the blue flag has removed the flag and unlocked the entrance switch and the switch has been relined for movement onto the track by the appropriate employee. Once within the designated locomotive servicing area, the newly introduced locomotive must be stopped short of coupling to any locomotive already on that track. A blue flag

must then be displayed in a readily visible location on the controlling locomotive before workmen may begin work which requires them to go on, under or between the equipment. Similar procedures must also be followed in removing a locomotive from the track.

Section 218.25(g) provides proposed procedures for the repositioning of locomotives within the servicing area, including the making up or breaking up of consists of more than a single locomotive unit. These procedures require that the blue flag be removed from the controlling unit which is to be moved, and the workmen on the track be notified of the movement of the equipment. After these precautions have been taken, an authorized employee under the direction of the employee in charge of the workmen may reposition the equipment within the locomotive servicing area.

Section 218.25(h) proposes to allow the similar repositioning of cars within a car repair area when the car mover is operated by an authorized employee under the supervision of the employee in charge of the workmen provided that the workmen have been notified of the movement.

Section 218.27 proposes an amendment which will provide for the locking of manually operated switches on hump-yard track. This provision parallels those of section 218.25, including the alternate use of a locked derail as described above.

In consideration of the foregoing, the FRA proposes to amend Part 218 of Title 49 of the Code of Federal Regulations as follows:

1. By revising § 218.5 (a) and (d) to read as follows:

§ 218.5 Definitions.

As used in this part—

(a) "Workmen" means railroad employees assigned to inspect, test, repair or service railroad rolling equipment, or their components including brake systems. Train and yard crews are excluded, except when assigned to perform such work on railroad rolling equipment that is not part of the train or yard movement they have been called to operate.

(d) "Effective locking device" means one which is:

- (1) Vandal resistant;
- (2) Tamper-proof; and
- (3) Locked and unlocked only by the class or craft of employee applying the lock.

2. By revising § 218.23 to read as follows:

§ 218.23 Blue Signal Display.

(a) A blue signal displayed in accordance with § 218.25 and § 218.27 signifies that workmen are on, under, or between the equipment and that it may not be coupled to nor moved except as provided in § 218.25 (f), (g), and (h). Other rolling equipment may not be placed on the same track so as to block or reduce the view of the blue signals except as provided in § 218.25(f).

(b) A blue signal displayed at one or both ends of a track signifies that work-

men are on, under, or between rolling equipment on the track and that other rolling equipment may not enter the track, except as provided for in § 218.25 (f).

3. Section 218.25 is amended by revising paragraph (a), redesignating paragraphs (b) and (c) as (c) and (d) respectively, adding a new paragraph (b) and paragraphs (e), (f), (g), and (h) to read as set forth below:

§ 218.25 Workmen on a track other than a hump-yard track.

(a) When workmen are on, under, or between rolling equipment on a track other than a hump-yard track, a blue signal must be displayed at each entrance to the track and each manually operated switch, including any crossover switch, providing access to the track on which such equipment is located must be lined against movement to that track and secured by an effective locking device which may not be removed except by the class or craft of workmen performing the work.

(b) A derail capable of restricting access to that portion of a track on which such equipment is located will fulfill the requirements of a manually operated switch in compliance with this section when locked with an effective locking device in a derailing position. A blue signal must be displayed at each such derail.

(e) Workmen may work on, under, or between a locomotive on designated locomotive servicing area tracks under the exclusive control of mechanical forces after—

(1) The manually operated switches providing entrance to and departure from the designated locomotive servicing area are lined for movement to another track and secured by an effective locking device; and

(2) A blue signal has been placed at or near each of those switches; and

(3) A blue signal has been attached to the controlling locomotive at a location where it is readily visible to the engineman or operator at the controls of that locomotive.

(f) A locomotive may not be moved onto or off of a designated locomotive servicing area track under the exclusive control of mechanical forces unless the blue signal is first removed—

(1) From the entrance switch to the area and the locomotive which is placed on the track is stopped short of coupling to another locomotive; or

(2) From the controlling locomotive to be moved and from the area departure switch, before the locomotive is removed from the track.

(g) A locomotive protected by blue signals may be moved on a track within the designated locomotive servicing area under the exclusive control of mechanical forces when operated by an authorized employee under the direction of the employee in charge of the workmen after the blue signal has been removed from the controlling locomotive to be repositioned and the workmen on the track have been notified of the movement.

(h) Rolling equipment protected by blue signals on car-shop repair tracks, which are under the exclusive control of car department forces, may be repositioned with a car mover when operated by an authorized employee under the direction of the employee in charge of the workmen after the workmen on the track have been notified of the movement.

7. By revising § 218.27 to read as follows:

§ 218.27 Workmen on hump-yard track.

(a) Workmen may not work on, under, or between rolling equipment on a hump-yard track unless—

(1) Each manually operated switch, including crossover switches providing access to that track is lined against movement to that track and secured by an effective locking device; and

(2) A blue signal has been placed at or near each manually-operated switch; or

(3) A derail capable of restricting access to that portion of a track on which such equipment is located will fulfill the requirements of a manually operated switch in compliance with this section when locked with an effective locking device in a derailing position. A blue signal must be displayed at each such derail.

(4) The person in charge of the workmen has notified the operator of the remotely-controlled switches of the work to be performed, and has been informed by the operator that each remotely-controlled switch providing access to the track has been lined against movement to that track and locked as prescribed by § 218.29(a).

Interested persons are invited to participate in this proceeding by submitting written data, views, or comments. Communications should identify the regulatory docket number, and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590. Communications received before December 6, 1976, will be considered before final action is taken on the proposed rules. All comments received will be available for examination by interested persons at any time during regular working hours in Room 5101, Nassif Building, 400 Seventh Street, S.W., Washington, D.C. 20590.

The proposals contained in this notice may be changed in light of the comments received.

In addition, the FRA will conduct a public hearing on November 23, 1976, in Room 4234, 400 Seventh Street, S.W., Washington, D.C. at 10:00 a.m. The hearing will be informal, and not a judicial or evidentiary hearing. There will be no cross-examination of persons making statements. A staff member of the FRA will make an opening statement outlining the matter set for hearing. Interested persons will then have the opportunity to present their oral statements. At the completion of all initial oral statements, those persons who wish to make rebuttal statements will be given the opportunity

to do so in the same order in which they made their initial statements. Additional procedures for conducting the hearing will be announced at the hearing.

Interested persons may present oral or written statements at the hearing. All statements will be made a part of the record of the hearing and be a matter of public record. Any person who wishes to make an oral statement at the hearing should notify the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, 400 Seventh Street, S.W., Washington, D.C. 20590 before November 22, 1976, stating the amount of time required for the initial statement.

This notice is issued under authority of Sec. 202, 84 Stat. 971, 45 U.S.C. 431 and § 1.49(n) of the regulations of the Office of the Secretary of Transportation, 49 CFR 1.49(n).

Issued in Washington, D.C. on October 22, 1976.

ASAPH H. HALL,
Administration.

[FR Doc. 76-32032 Filed 11-1-76; 8:45 am]

DEPARTMENT OF LABOR

Office of Federal Contract Compliance Programs

[41 CFR Parts 60-2, 60-5, 60-8]

EQUAL EMPLOYMENT OPPORTUNITY

Charter Reorganized; Hearings in Advance of Rulemaking

On September 17, 1976, the Department of Labor published for comment in the FEDERAL REGISTER (41 FR 40340) notice of proposed rulemaking which would revise and redesignate the regulations in 41 CFR Parts 60-1 through 60-60. Significant changes were proposed to replace Parts 60-1, Obligations of contractors; Part 60-2, Affirmative action programs; Part 60-30, Hearing rules for sanction proceedings; and Part 60-60, Contractor evaluation procedures for contractors for supplies and services.

Despite the very significant impact of the proposed rules on the future implementation of Executive Order 11246, as amended, the Department of Labor has received relatively few written comments thereupon. We have received, however, from a number of Members of Congress and from several women's rights organizations and their membership, requests that public hearings be held with respect to the proposed rules.

The Department of Labor welcomes the views and suggestions of the public regarding the implementation of the Executive Order and the maximizing of full and equal employment opportunity. Accordingly, in order to be responsive to the requests and to gain an understanding of public sentiment regarding the proposed rules, notice is hereby given that pursuant to Section 208 of Executive Order 11246, as amended, public hearings in advance of rulemaking with regard to the proposed regulations are scheduled as follows: Commencing on Monday, December 6, 1976, in New York, New York, and (concurrently) in Atlanta, Georgia; commencing on Monday,

December 13, 1976, in Chicago, Illinois, and (concurrently) in Los Angeles, California. Notice of the exact location of the hearings will be published in the FEDERAL REGISTER no later than November 16, 1976. Beginning at 8:30 a.m. on December 6, 1976, and on December 13, 1976, the presiding Administrative Law Judges will hold pre-hearing conferences in order to establish the order and time for the presentations, and in order to settle any other matters relating to the proceedings. All persons intending to make presentations should attend the pre-hearing conference, which is open to the public. The public hearing will immediately follow the pre-hearing conference. Participants in the hearings will include representatives of the Office of Federal Contract Compliance Programs and the Office of the Solicitor of Labor.

Persons desiring to appear at the hearings must file a written notice of intention to appear along with four duplicate copies with Division of Program Planning and Policy, Office of Federal Contract Compliance Programs, New U.S. Department of Labor Building, Room C3325, 200 Constitution Avenue, NW., Washington, D.C. 20210.

Notices of intention to appear must be received no later than Wednesday, November 17, 1976, in order to facilitate scheduling the appearances.

The notice should state the name and address of the person or group wishing to appear, the capacity in which he or she will appear, and the approximate amount of time required for the presentation.

The oral proceedings shall be recorded verbatim, and written statements will be included in the record. Submission of detailed written statements to supplement and amplify upon oral testimony is encouraged. However, the oral testimony is expected to be a summary of the written statement and witnesses are encouraged not to read the statements. Five copies of such written statements should be received at the above address by Friday, November 26, 1976.

The Administrative Law Judges shall keep the hearing records open through Monday, December 27, 1976, to receive further written information on any matter raised in the oral proceedings. In addition, each presiding Administrative Law Judge shall have all the powers necessary or appropriate to conduct a fair and full informal hearing, including the powers:

- (a) To regulate the course of the hearing;
- (b) To dispose of procedural requests, objections, and comparable matters;
- (c) To confine the presentations to matters pertinent to the requested information;
- (d) To regulate the conduct of those present at the hearing by appropriate means; and
- (e) In his discretion, to question and permit questioning of any witness.

Following the close of the hearings the presiding Administrative Law Judges shall certify the records thereof to the Secretary of Labor.

Copies of all comments received in response to this notice and transcript of oral testimony will be available for pub-

lic inspection during regular business hours at the Office of Federal Contract Compliance Programs, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

The scheduling of these hearings does not affect the length of the previously published comment period pertaining to the proposed regulations. With the exception of written statements and information pertinent to hearing testimony as discussed above, all comments, suggestions or objections regarding the proposed revision must be submitted on or before November 16, 1976.

Signed at Washington, D.C., this 29th day of October 1976.

W. J. USERY, Jr.,
Secretary of Labor.

JOHN C. READ,
Assistant Secretary for
Employment Standards.

LAWRENCE Z. LORBER,
Deputy Assistant Secretary, Director,
Office of Federal Contract Compliance Programs.

[FR Doc.76-32270 Filed 11-1-76; 8:45 am]

CIVIL AERONAUTICS BOARD [14 CFR Part 300]

[PDR-41A; Docket 29626; Dated October 15, 1976]

RULES OF CONDUCT IN BOARD PROCEEDINGS

Supplemental Notice of Proposed Rulemaking

This notice supplements the notice (PDR-41, 41 FR 34650, August 16, 1976) proposing to issue as a permanent final rule a revision of 14 CFR Part 300, Rules of Conduct in Board Proceedings.

Some changes have been made in the interim revision of Part 300 by a notice in this issue of the FEDERAL REGISTER, which discusses the reasons for the changes. Certain of those changes are tentatively intended to appear in the permanent final rule, and therefore are set forth below as changes in the proposal for which the comment is presently open (until December 29, 1976). Interested persons should examine the notice of amendments in this issue of the FEDERAL REGISTER for explanations of these changes.

In addition to the changes in the proposal made by this notice, it should also be noted that, for reasons discussed in detail in the preamble to that notice, the amendments to the interim rule (Items 8 and 9) modified the coverage of § 300.2a, Prohibited influence and solicitation, to include only hearing cases insofar as communications with the media are concerned, and eliminated § 300.7, Contacts with other government agencies. The Board is particularly interested in receiving comments from interested persons on whether those sections should be applied to the wide range of cases otherwise covered by the part, or restricted to hearing cases, or whether

some modified rule should be applied to the activities dealt with in those sections.

Accordingly, it is proposed that the following supplemental changes be made in the proposed permanent final rule of which notice was published on August 16, 1976, 41 FR 34650. The rules for filing comments on the entire proposal remain as set forth in that notice.

§ 300.2 [Amended]

1. Paragraph (c) of § 300.2 would be amended by striking out the words "at the request of" in the second sentence thereof and substituting therefor the word "to" and by adding a sentence at the end of the paragraph as follows:

(c) * * * The prohibition of paragraph (b) of this section shall not prohibit private oral or written communications by interested persons to any Member of the Board or Board employee concerning pending or prospective intergovernmental negotiations relating to foreign air transportation or concerning the position or policy of the United States with respect to international aviation matters. Such communications shall not present or urge any position on any substantive issue in any contested case to be decided after notice and hearing which is pending before the Board unless the issue in question is directly and unavoidably involved in the pending or prospective intergovernmental negotiations and the communicator's position with respect to the negotiations cannot be fairly presented without reference to that issue. In the latter circumstances, no such communication shall be considered by the administrative law judge or the Board in the determination of the hearing case unless it is introduced therein in accordance with the Board's rules of practice.

2. Paragraph (e) of § 300.2 would be amended by inserting the following sentence after the sentence ending "mailed to the communicator":

(e) * * * In addition to all other copies of prohibited communications or memoranda thereof required to be publicly filed hereby, one copy of each shall be filed in chronological order in an "Ex Parte File" to be maintained in the Public Reference Room. * * *

4. Section 300.2a should be revised to read as follows:

§ 300.2a Prohibited influence and solicitation.

(a) It is improper that there be any effort by any person interested in a proceeding before the Board to sway the judgment of the Board by attempting to bring pressure or influence to bear upon any Member of the Board or Board employee.

(b) In any case to be determined after notice and hearing and upon a record, it is improper that any person, directly or indirectly, give statements to the communications media, by paid advertisements or otherwise, designed to influence the Board's judgment in the case.

(c) It is improper that any person interested in a proceeding before the Board

solicit any other person to make a communication to any Member of the Board or Board employee which is prohibited by these rules of conduct. Any interested person soliciting the support of another person in any Board proceeding shall call such person's attention to these rules of conduct and to the appropriate provisions of the Rules of Practice, including (in a case to be determined after notice and hearing) Rules 14 and 15.

(d) Nothing in this section shall be interpreted as precluding any person interested in a proceeding from communicating with any member of the Congress on any subject.

5. Paragraph (a) of § 300.4 would be amended by replacing the fifth sentence, beginning "Further, a brief written summary" with the following passage:

§ 300.4 Permitted communications.

(a) * * * Further, a brief written summary of any oral statement will be placed in the appropriate public file, except that only Members are required to make such written summary of oral communications in tariff cases where no complaint has been filed and in uncontested nonhearing matters, excluded from § 300.2 by § 300.2(a) (2) and (4). In addition to all other copies of permitted communications or memoranda thereof required to be filed publicly hereby, one copy of each shall be filed in chronological order in an "Ex Parte File" to be maintained in the Public Reference Room. * * *

6. Paragraph (b) of § 300.4 would be amended by placing parentheses around the following passage presently in the first sentence: "(other than those from other U.S. Government agencies relating to the conduct of the foreign affairs or the national defense of the United States, or from foreign governments)."

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.76-32101 Filed 11-1-76; 8:45 am]

FEDERAL ENERGY ADMINISTRATION

[10 CFR Part 209]

RECORDKEEPING REQUIREMENTS RELATING TO INTERNATIONAL VOLUNTARY AGREEMENTS

Cancellation of Hearing

On September 2, 1976, the Federal Energy Administration (FEA) published proposed regulations concerning recordkeeping requirements relating to international voluntary agreements (41 FR 37128). The public hearing on this proposal, as rescheduled in a notice of September 22, 1976, was to be held on November 5, 1976 (41 FR 41432). However, since only one request to speak at this hearing was received, and since this request was subsequently withdrawn, the hearing is hereby cancelled. In all other

PROPOSED RULES

respects, the September 2 notice, as modified by that of September 22, remains the same.

Issued in Washington, D.C., October 27, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.

[FR Doc.76-31948 Filed 10-28-76;9:16 am]

FEDERAL POWER COMMISSION

[18 CFR Part 260]

[Docket No. RM76-33]

CORPORATE AND FINANCIAL REPORTS
FOR CLASS A AND CLASS B NATURAL
GAS COMPANIES

New Form Nos. 154A and 154M; Notice of
Extension of Time

OCTOBER 22, 1976.

On August 27, 1976, the Commission issued a Notice of Proposed Rulemaking in Docket No. RM76-33, (published September 8, 1976, 41 FR 37882), calling for comments in writing by October 26, 1976. Several motions for extensions of time within which to file comments in the above-designated proceeding have been filed.

Notice is hereby given that the time for filing comments in the above-designated rulemaking proceeding is extended to and including November 2, 1976, pending further order by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-37011 Filed 11-1-76;8:45 am]

[18 CFR Part 260]

[Docket No. RM76-27]

GAS SUPPLY AND OPERATIONS

Data-New Form No. 153; Notice of Further
Extension of Time

OCTOBER 22, 1976.

On July 28, 1976, the Commission issued a Notice of Proposed Rulemaking in Docket No. RM76-27 (published August 10, 1976, 41 FR 33642), calling for comments in writing by September 27, 1976. By notice issued September 24, 1976, the time for filing comments was extended to and including October 27, 1976. Several motions for further extensions of time within which to file comments in the above-designated rulemaking proceeding have been filed.

Notice is hereby given that the time for filing comments in the above-designated rulemaking proceeding is further extended to and including November 2, 1976, pending further order by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-32010 Filed 11-1-76;8:45 am]

[18 CFR Part 141]

[Docket No. RM76-34]

CORPORATE AND FINANCIAL REPORTS
FOR CLASS A AND CLASS B ELECTRIC
UTILITIES AND LICENSEES

New Form Nos. 162A and 162M; Notice
of Extension of Time

OCTOBER 22, 1976.

On August 31, 1976, the Commission issued a Notice of Proposed Rulemaking in Docket No. RM76-34, (published September 15, 1976, 41 FR 39448), calling for comments in writing by October 30, 1976. Several motions for extensions of time within which to file comments in the above-designated proceeding have been filed.

Notice is hereby given that the time for filing comments in the above-designated rulemaking proceeding is extended to and including November 2, 1976, pending further order by the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-32009 Filed 11-1-76;8:45 am]

SECURITIES AND EXCHANGE
COMMISSION

[17 CFR Part 259]

[Release No. 35-19731; File No. S7-656]

ANNUAL REPORTS FOR PUBLIC UTILITY
HOLDING COMPANIES

Extension of Comment Period

On October 5, 1976, the Commission invited public comments on proposed amendments to Form U5S pursuant to sections 5(c) and 20(a) of the Public Utility Holding Company Act of 1935 (Release No. 35-19705) [41 FR 44863, 10-13-76]. The time for submitting comments expires November 1, 1976.

The Commission has extended the comment period to November 15, 1976, with respect to the related rules under the Securities Exchange Act (Release No. 34-12892) [41 FR 46353, 10-20-76]. Accordingly, the comment period for the Form U5S amendments is extended to November 15, 1976. Comments should be addressed to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, Washington, D.C. 20549, in triplicate. All such communications should refer to File No. S7-656.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

OCTOBER 28, 1976.

[FR Doc.76-32222 Filed 11-1-76;8:45 am]

INTERSTATE COMMERCE
COMMISSION

[49 CFR Part 1090]

[Ex Parte No. 230 (Sub-No. 4)]

INVESTIGATION TO CONSIDER FURTHER
MODIFICATION OF THE PIGGYBACK
SERVICE REGULATIONS

Circuitry Limitations

● *Purpose.* The Interstate Commerce Commission will determine whether there continues to be a need for any circuitry limitations on TOFC service and, if so, what the limitations should be in light of current economic conditions. ●

At a General Session of the Interstate Commerce Commission, held at its office in Washington, D.C., on the 12th day of October, 1976.

It is ordered, That based on the reasons set forth in the attached notice, a rulemaking proceeding be, and it is hereby, instituted pursuant to 5 U.S.C. 552, 553, and 559 (the Administrative Procedure Act), and under the authority of parts I, II, III and IV of the Interstate Commerce Act, to develop information concerning whether there continues to be an economic justification for any circuitry limitations on TOFC services, and, if so, what the limitations should be in light of current economic conditions, and for the purpose of taking such other and future action as the circumstances may justify or require.

It is further ordered, That the attached notice be, and it is hereby, adopted, and incorporated by reference into this order.

And it is further ordered, That notice of the institution of this rulemaking proceeding shall be given to the general public by depositing a copy of this order and the attached notice in the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., for public inspection and by delivery of a copy of the notice to the Director, Office of the Federal Register, for publication in the FEDERAL REGISTER as notice to interested persons.

In its report and order in Ex Parte No. 230 (Sub-No. 3), Petition for Enlargement of the Amount of Operational Circuitry Reduction Permitted Motor Carriers of Property Under Certain Provisions of the Trailer-on-Flatcar Service Rules, the Interstate Commerce Commission effected a modification of its trailer-on-flatcar (TOFC) or piggyback service regulations, 49 CFR Part 1090, so that the circuitry limitations provision, 49 CFR 1090.5 will now read:

§ 1090.5 Circuitry limitations.

(a) Motor and water common carriers shall not participate in joint intermodal TOFC service which is to be provided in lieu of their authorized line-haul trans-

portation, and motor and water common and contract carriers shall not utilize open tariff TOFC service, where the distance from origin to destination over the route including the TOFC movement:

(1) Is less than 80 percent of the distance between such points over the motor carrier's authorized service route, or

(2) Is less than 85 percent of the distance between such points over the water carrier's authorized service route: *Provided, however*, That the Interstate Commerce Commission may grant relief from the provisions of this paragraph upon consideration of an appropriate petition.

(b) For the purpose of paragraph (a) of this section the distance from origin to destination over the motor or water carrier's authorized route shall be computed:

(1) If a motor carrier operating over regular routes, over its authorized regular service route,

(2) If a motor carrier operating over irregular or a combination of regular and irregular routes, through any gateway point which it is required to observe, and

(3) If a water carrier over the most direct available all-water route.

Thus, the modification adopted allows those motor carriers of property, which utilize rail TOFC service in lieu of or in substitution for their authorized motor service, to reduce their operational circuitries by an additional 5 percent (i.e., an increase in permissible circuitry reduction from the former 15 to the adopted 20 percent).

However, in its report the Commission noted the request of the Environmental Protection Agency that a further liberalization of the circuitry provisions (i.e., a requested increase in permissible circuitry reduction of 25 percent or more) might be appropriate. Moreover, the Commission concluded that, in light of the changing energy needs and economic climate in our Nation, a complete reevaluation of its policies with regard to circuitry limitations on TOFC service is now appropriate. The Commission further stated that it did not believe that the notice published in the *FEDERAL REGISTER* in connection with the involved petition was sufficient to apprise potentially interested parties that such a reevaluation might be undertaken within the context of said proceeding. Similarly, the Commission stated it did not believe that the record heretofore developed was sufficient to enable it to reach an informed judgment as to whether, or to what extent, changes in its existing policy might be needed. In these premises, the Commission stated that, con-

current with the service of the said report, it would institute on its own motion a further rulemaking proceeding to determine whether there continues to be an economic justification for any circuitry limitations on TOFC service and, if so, what the limitations should be in light of current economic conditions. Accordingly, the above-entitled rulemaking proceeding which is the subject of the instant notice, is hereby, being instituted.

No oral hearing is contemplated at this time, but anyone wishing to present views and evidence, either in support of, or in opposition to the action proposed in the Commission's order, may do so by submission of written data, views or arguments. An original and 15 copies (wherever possible) of such data, views or arguments shall be filed with this Commission on or before January 3, 1977. Written submissions will be available for public inspection during regular business hours at the offices of the Interstate Commerce Commission, 12th and Constitution Avenue, N.W., Washington, D.C.

Notice to the general public of the matter herein under consideration will be given by depositing a copy of this notice in the Office of the Secretary of the Commission for public inspection and by filing a copy thereof with the Director, Office of the Federal Register.

By the Commission.¹

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-32089 Filed 11-1-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

[7 CFR Part 1427]

UPLAND COTTON

Determination of 1977-Crop Loan Level

On July 30, 1976, the Commodity Credit Corporation published in the *FEDERAL REGISTER* (41 FR 31850) a notice that the Secretary of Agriculture was proposing to make a determination of the loan level with respect to the 1977 crop of upland lint cotton. Such determination would reflect for Middling 1-inch cotton (micronaire 3.5 through 4.9) at average location in the United States 90 percent of the average price of American cotton in world markets for the 3-year period August 1, 1973, through July 31, 1976. The determination is made pursuant to a regulation published in the *FEDERAL REGISTER* of August 22, 1973 (38

¹ By the Commission. (Commissioner Murphy, whom Commissioner Hardin joins, dissenting).

FR 22543) specifying the procedures and factors to be used in making the world price determination. The preliminary loan level for 1977-crop upland cotton is determined to be 42.58 cents per pound.

Data involved in the determination of the preliminary 1977-crop loan level for upland cotton are contained in Tables 1 through 5 which follow:

TABLE 1.—Upland cotton: Average prices quoted for U.S. strict middling 1 $\frac{1}{16}$ in. world markets, by months (1973-74 marketing year)

Marketing year and month	Average price quoted in—	
	Northern Europe ¹	Osaka ²
1973		
August	79.80	63.65
September	90.19	68.50
October	88.75	72.69
November	80.95	76.88
December	88.42	87.25
1974		
January	93.50	84.33
February	82.12	67.00
March	74.38	65.00
April	69.94	63.00
May	63.65	61.00
June	62.69	56.00
July	65.38	(4)
Weighted average price ⁴	78.06	71.15
2 market averages		72.98

¹ Includes Europe, Africa, and Middle East.

² Includes Asia and Oceania.

³ Derived.

⁴ Not quoted.

⁵ Weighted by experts first 2 mos; export sales thereafter.

TABLE 2.—Upland cotton: Average prices quoted for U.S. strict middling 1 $\frac{1}{16}$ in. in world markets, by months (1974-75 marketing year)

Marketing year and month	Average price quoted in—	
	Northern Europe ¹	Osaka ²
1974:		
August	64.26	(3)
September	60.46	(3)
October	57.97	49.00
November	53.65	47.75
December	52.27	46.00
1975:		
January	51.24	44.00
February	52.58	45.00
March	53.76	50.00
April	56.25	51.94
May	56.10	55.00
June	61.00	54.12
July	60.78	55.94
Weighted average price	55.18	51.32
2 market averages		52.34

¹ Includes Europe, Africa, and Middle East.

² Includes Asia and Oceania.

³ Not quoted.

⁴ Derived.

⁵ Weighted by export sales each month.

TABLE 3.—Upland cotton: Average prices quoted for U.S. strict middling 1½ in. in world markets, by months (1975-76 marketing year)

[In cents per pound]

Marketing year and month	Average price quoted in—	
	Northern Europe ¹	Osaka ²
1975:		
August.....	63.14	58.38
September.....	65.39	58.50
October.....	64.75	59.04
November.....	65.66	61.38
December.....	68.56	62.82
1976:		
January.....	71.44	64.25
February.....	71.44	66.60
March.....	70.25	66.06
April.....	70.26	64.95
May.....	75.28	67.81
June.....	83.21	76.67
July.....	87.52	81.85
Weighted average price ⁴	77.85	68.13
2 market average.....	69.27	

¹ Includes Europe, Africa, and Middle East.

² Includes Asia and Oceania.

³ Derived.

⁴ Weighted by export sales each month.

TABLE 4.—American cotton: Estimated shipping costs from Texas markets (Average U.S. location) to all foreign markets—Estimated costs ¹

Marketing year:	Per bale (net weight)	Per pound (net weight, in cents)
1973-74.....	\$46.26	9.54
1974-75.....	61.39	12.79
1975-76.....	64.34	13.40
3-yr average.....	57.33	11.94

¹ These estimates reflect the weighted average of costs to ship cotton from Texas markets (Lubbock, Dallas, Houston) to all foreign outlets combined. Cost items included are those normally experienced in merchandising American cotton to foreign markets.

TABLE 5.—Upland cotton: Determination of 1977 loan level, basis middling 1 in, micronaire 3.5 through 4.9, at average location in the United States—1977 program

	Cents per pound net weight
1. Weighted average price for U.S. SM 1½ in: ¹	
(a) August 1973 to July 1974.....	72.98
(b) August 1974 to July 1975.....	52.34
(c) August 1975 to July 1976.....	69.27
2. Average price, 3 marketing years.....	64.86
3. Weighted quality adjustment to convert to U.S. middling 1 in ²	5.61
4. Less item 3.....	59.25
5. Adjustment for handling, transportation, and associated marketing charges from U.S. average location ³	11.94
6. Less item 5.....	47.31
7. 90 pct of average world market price, basis U.S. middling 1 in, micronaire 3.5 through 4.9, at average U.S. location (9 pct of item 6).....	42.58

¹ Weighted by export sales.

² Weighted average number of points foreign market quotations for SM 1½ in are estimated to be higher than middling 1 in cotton according to U.S. quality standards.

³ Based upon a study by the Economic Research Service, USDA, covering weighted average charges from U.S. average location to foreign markets, August 1973 to July 1976.

Signed at Washington, D.C., on October 26, 1976.

SEELEY G. LODWICK,
Acting Executive Vice President,
Commodity Credit Corporation.

[FR Doc.76-32028 Filed 11-1-76;8:45 am]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Parts 155 and 159]

COUNTERVAILING DUTIES

Extension of Time for Comment

OCTOBER 27, 1976.

A notice of proposed amendment to the Customs Regulations deleting § 159.47 (19 CFR 159.47) and creating a new Part 155, Countervailing Duties, was published in the FEDERAL REGISTER on September 21, 1976 (41 FR 41093). Pursuant to that notice, the public was invited to submit data, views, or arguments pertaining to the proposed amendment on or before October 21, 1976.

Requests have been received for an extension of time for the submission of comments. Therefore, the period for submission of data, views, or arguments relating to the cited proposal is extended to December 17, 1976.

VERNON D. ACREE,
Commissioner of Customs.

[FR Doc.76-32049 Filed 11-1-76;8:45 am]

Internal Revenue Service

[26 CFR Part 1]

TUITION REMISSION PROGRAMS

Definitions

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by December 17, 1976. Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, persons submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to

comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Commissioner by December 17, 1976. In such case, a public hearing will be held, and notice of the time, place, and date will be published in a subsequent issue of the FEDERAL REGISTER, unless the person or persons who have requested a hearing withdraw their requests for a hearing before notice of the hearing has been filed with the Office of the Federal Register. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

The following regulations are proposed under section 117 of the Internal Revenue Code of 1954 (relating to scholarships and fellowship grants) in order to provide rules for the treatment of amounts received from an educational institution under a tuition remission program. The amendment provides that if an educational institution participates in a plan whereby the tuition of a child or spouse of an employee or former employee of such institution is remitted, paid, or reimbursed by that institution or by any other participating institution, the amount so remitted, reimbursed or paid will not be considered a scholarship under section 117, but will instead be treated as compensation to the employee for services provided by such employee, unless the program is not compensatory in nature.

Because the amendment changes the position of the present regulations with respect to tuition remission programs, pursuant to the authority under section 7805(b) of the Code, the provision of these regulations relating to the treatment of tuition remission programs will have prospective effect only for amounts so paid, remitted or reimbursed on or after the date this document is published in the FEDERAL REGISTER as a notice of proposed rule making. However, the provisions relating to tuition remission programs will not apply to certain amounts remitted on or after such date for scholastic year 1976-1977 if such amounts are remitted pursuant to an obligation made before such date.

PROPOSED AMENDMENTS TO THE REGULATIONS

In order to clarify the rules relating to tuition remission programs for purposes of section 117 of the Internal Revenue Code of 1954, the Income Tax Regulations (26 CFR Part 1) under section 117 are revised as follows:

PARAGRAPH 1. Paragraph (a) of § 1.117-3 is amended to read as follows:

§ 1.117-3 Definitions.

(a) *Scholarship.* A scholarship generally means an amount paid or allowed

to, or for the benefit of, a student, whether an undergraduate or a graduate, to aid such individual in pursuing his studies. The term includes the value of contributed services and accommodations (see paragraph (d) of this section) and the amount of tuition, matriculation, and other fees which are furnished or remitted to a student to aid him in pursuing his studies. The term also includes any amount received in the nature of a family allowance as a part of a scholarship. However, the term does not include any amount provided by an individual to aid a relative, friend, or other individual in pursuing his studies where the grantor is motivated by family or philanthropic considerations. If, before November 2, 1976, an educational institution remits, or obligates itself to remit, amounts for the tuition of a child of a faculty member for the scholastic year 1976-1977 (or preceding scholastic years) under a plan which the institution maintains, or in which it participates, whereby the tuition of a child of a faculty member of such institution is remitted by any other participating educational institution attended by such child, the amount of the tuition so remitted, or to be remitted, shall be considered to be an amount received as a scholarship. However, see § 1.117-4(c) for provisions relating to certain amounts paid, remitted or reimbursed on or after November 2, 1976 pursuant to certain plans or arrangements maintained by educational institutions.

PAR. 2. Paragraph (c) of § 1.117-4 is amended by adding a new sentence at the end thereof to read as follows:

§ 1.117-4 Items not considered as scholarships or fellowship grants.

(c) Amounts paid as compensation for services or primarily for the benefit of the grantor. * * * In applying subparagraph (1) of this paragraph, any amounts remitted by an educational institution on or after November 2, 1976 (other than amounts described in § 1.117-3(a) which the educational institution obligated itself before such date to remit) pursuant to a plan or arrangement whereby the tuition of a child or spouse of an employee or former employee is remitted by any other participating educational institution attended by such child or spouse, or any amounts remitted, paid or reimbursed by an educational institution on or after such date pursuant to a plan or arrangement whereby the tuition of a child or spouse of an employee or former employee to attend any educational institution is remitted, paid or reimbursed by the employing institution, shall be treated as compensation or payment to the employee for services, unless it can be established that such plan or arrangement is not compensatory in nature.

[FR Doc. 76-32097 Filed 11-1-76; 8:45 am]

[26 CFR Part 1]

TREATMENT OF ADVANCED ROYALTIES PAID OR ACCRUED IN CONNECTION WITH MINERAL PROPERTY

Notice of Proposed Rulemaking

Notice is hereby given that the regulations set forth in tentative form in the attached appendix are proposed to be prescribed by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury or his delegate. Prior to the final adoption of such regulations, consideration will be given to any comments pertaining thereto which are submitted in writing (preferably six copies) to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, by November 23, 1976.

Pursuant to 26 CFR 601.601(b), designations of material as confidential or not to be disclosed, contained in such comments, will not be accepted. Thus, a person submitting written comments should not include therein material that they consider to be confidential or inappropriate for disclosure to the public. It will be presumed by the Internal Revenue Service that every written comment submitted to it in response to this notice of proposed rule making is intended by the person submitting it to be subject in its entirety to public inspection and copying in accordance with the procedures of 26 CFR 601.702(d)(9). Any person submitting written comments who desires an opportunity to comment orally at a public hearing which will be held on these proposed regulations should submit a request, in writing, to the Commissioner by November 23, 1976. Notice of the time, place, and date of the public hearing and other details relating thereto is published simultaneously herewith. The proposed regulations are to be issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

WILLIAM E. WILLIAMS,
Acting Commissioner
of Internal Revenue.

CHARLES M. WALKER,
Assistant Secretary of
the Treasury.

This document contains a proposed amendment to the Income Tax Regulations (26 CFR Part 1) to modify the treatment of advanced royalties referred to in § 1.612-3(b) which are paid or accrued in connection with mineral property on or after October 29, 1976, unless the advanced royalties are required to be paid pursuant to a mineral lease which (i) was binding prior to that date upon the party who in fact pays or accrues such royalties, or (ii) was required, pursuant to a written contract, to be executed by the party who in fact pays or accrues such royalties, provided that such party establishes, to the satisfaction of the Secretary or his delegate, that under all the facts and circumstances the contract was binding upon such party

prior to that date. For purposes of clause (ii) of the preceding sentence, a contract will in no event be considered to be binding upon such party if the obligations imposed on such party prior to October 29, 1976, were not substantial or were illusory.

The proposed regulations provide that the payor shall treat the advanced royalties paid or accrued in connection with mineral property as deductions from gross income for the year the mineral product, in respect to which the advanced royalties were paid, is sold. However, in the case of advanced royalties paid or accrued in connection with mineral property as a result of a minimum royalty provision, the payor, at his option, may treat all such payments as deductions from gross income for the year the minimum royalties are paid or accrued. Every taxpayer who paid or accrued minimum royalties in a taxable year ending after December 31, 1939, which were the subject of an election under existing § 1.612-3(b)(3) or prior corresponding regulations, is required by the proposed regulations to continue to treat such royalties in accordance with that election. On the other hand, the proposed regulations provide for an election to be made in cases where the payor has only made payments of advanced royalties which do not constitute minimum royalties.

PROPOSED AMENDMENTS TO THE REGULATIONS

In order to modify the treatment of advanced royalties paid or accrued in connection with mineral property, § 1.612-3 of the Income Tax Regulations (26 CFR Part 1) is amended by revising paragraph (b)(3), effective with respect to advanced royalties paid or accrued in connection with mineral property on or after October 29, 1976, unless the advanced royalties are required to be paid pursuant to a mineral lease which (i) was binding prior to that date upon the party who in fact pays or accrues such royalties, or (ii) was required, pursuant to a written contract, to be executed by the party who in fact pays or accrues such royalties, provided that such party establishes, to the satisfaction of the Secretary or his delegate, that under all the facts and circumstances the contract was binding upon such party prior to that date. For purposes of clause (ii) of the preceding sentence, a contract will in no event be considered to be binding upon such party if the obligations imposed on such party prior to October 29, 1976, were not substantial or were illusory. The regulations are amended to read as follows:

Section 1.612-3(b)(3) is revised as set forth below:

§ 1.612-3 Depletion; treatment of bonus and advanced royalty.

(b) Advanced royalties. * * *

(3) The payor shall treat the advanced royalties so paid or accrued in connection

tion with mineral property as deductions from gross income for the year the mineral product, in respect of which the advanced royalties were paid or accrued, is sold. However, in the case of advanced royalties paid or accrued in connection with mineral property as a result of a minimum royalty provision, the payor, at his option, may instead treat the minimum royalty payments as deductions from gross income for the year in which the minimum royalties are paid or accrued. For purposes of this paragraph, a minimum royalty provision requires that substantially uniform royalty payments be made at least annually over the life of the lease. For an exception to this treatment when the payor is a sublessor of coal or domestic iron ore, see paragraph (b) (3) of § 1.631-3. Every taxpayer who pays or accrues advanced royalties resulting from a minimum royalty provision must make an election as to the treatment of all such minimum royalties in his return for the first taxable year ending after December 31, 1939, in which such minimum royalties are paid or accrued. The taxpayer's treatment of such minimum royalties for such first year shall be deemed to be the exercise of the election. Accordingly, a failure to deduct such minimum royalties for that year will constitute an election to have all such minimum royalties treated as deductions for the year of the sale of the

mineral product in respect of which such minimum royalties are paid or accrued. See section 7807(b) (2). For additional rules relating to elections in the case of partners and partnerships, see section 703(b) and the regulations thereunder.

[FR Doc.76-32303 Filed 11-1-76; 10:05 am]

[26 CFR Part 1]

TREATMENT OF ADVANCED ROYALTIES PAID OR ACCRUED IN CONNECTION WITH MINERAL PROPERTY

Public Hearing on Proposed Regulations

Proposed regulations under section 612 of the Internal Revenue Code of 1954, relating to treatment of advanced royalties paid or accrued in connection with mineral property, appear in this issue of the *FEDERAL REGISTER* (41 FR 48133).

A public hearing on the provisions of such proposed regulations will be held on November 30, 1976, beginning at 10 a.m. in the IRS Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

The rules of § 601.601 (a) (3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to such public hearing. Copies of these rules may be obtained by a request di-

rected to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224, or by telephoning (Washington, D.C.) 202-964-3935. Under such § 601.601(a) (3) persons who have submitted written comments within the time prescribed in the notice of proposed rule making, and who desire to present oral comments at the hearing on such proposed regulations, should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by November 23, 1976. Such outlines should be submitted to the Commissioner of Internal Revenue, Attention: CC:LR:T, Washington, D.C. 20224. Under § 601.601(a) (3) (26 CFR Part 601) each speaker will be limited to 10 minutes for an oral presentation exclusive of time consumed by questions from the panel for the Government and answers thereto.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of this agenda will be available free of charge at the hearing, and information with respect to its contents may be obtained on November 29, 1976, by telephoning (Washington, D.C.) 202-964-3935.

JAMES F. DRING,
Director, Legislation and
Regulations Division.

[FR Doc.76-32304 Filed 11-1-76; 10:05 am]

tainly, the problem is lessened with more depth but, still, the abandonment drill process carries considerable meaning to those aboard who may not be so familiar with drilling problems.

(6) Some commenters indicated that what ever standard was adopted, a reasonable time for compliance must be allowed in view of the limited capacity of present schools and the difficulties in starting new schools.

OCS Order No. 2 for the Pacific Area requires that drilling personnel be trained through a well control program within two years of the effective date, May 1, 1976. Assuming the Geological standard is adopted by December 1976, approximately 1½ years remain to work through the instruction process and become qualified. Such a time period should be adequate for compliance.

(7) One commenter stated the advantages of working as a team in blowout prevention and implied that certain efforts should be made to maintain the same drilling team.

The comment is well taken because blowout prevention under well-kick circumstances is definitely a team effort. However, the reality of drilling employment does not permit reliance on week-to-week, month-to-month drilling teams. Operators have experienced difficulty in maintaining the same drilling crew when rig moves are so frequent.

But preliminary to knowing the teammate and anticipating him is knowledge of the assigned job and how it relates to the teammate. Knowing the job is the primary purpose of the drills and the training; secondary is knowing what the other guy is doing. The secondary part will come with practice and interest.

(8) One commenter suggested that the formal training for initial qualification be done via a test well and not a simulator but that simulators could be used thereafter. Both the test well and the simulator have respective advantages in blowout prevention training. Until one is determined to be illogical in its portrayal of the meaning and action of a blowout in a specific way, both shall continue to be authorized for initial training. The crux of understanding and symbolizing a blowout either through the simulator or the actual well lies with the instructor.

(9) Some commenters wondered about the basis for certifying the training schools and the instructors.

The Geological Survey is now working on a process of certification for organized training in several areas of offshore work. Until the process is worked out formally, each school (and instructors) will require Geological Survey approval on a site-class basis.

(10) One commenter suggested that the training be extended into the Contingency Plan and the Coast Guard Memorandum of Understanding and that the training incorporate out-of-control situations.

The training for qualifying drilling personnel, as stated under RP T-3, is a significant requirement because it deals with detection and blowout prevention.

The drills include platform abandonment preparation as a precaution against catastrophe. Taking the training another step into the spill or out-of-control situation would be very complex and unduly burdensome because of the numerous possible situations and questionable instruction procedures and would be somewhat out-of-order because drilling crews cannot be expected to handle such situations routinely. When the out-of-control condition arises, the drilling crew cannot be expected to do any more than help with abandonment proceedings. The operator has the responsibility under the Contingency Plan to call in cleanup equipment for a spill. The operator has a responsibility to regain control of the well by whatever reasonable means he can devise under the 30 CFR 250 regulation. The Coast Guard has the responsibility for coordinating the cleanup effort.

GEOLOGICAL SURVEY OUTER CONTINENTAL SHELF STANDARD FOR

TRAINING AND QUALIFICATION OF PERSONNEL IN WELL CONTROL EQUIPMENT AND TECHNIQUES FOR DRILLING ON OFFSHORE LOCATIONS

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EXHIBIT I—SUMMARY OF QUALIFICATION PROCEDURES

1. INTRODUCTION AND SCOPE

This standard provides criteria for the qualification of drilling personnel in well control equipment operations and techniques to ensure safety and to prevent pollution during drilling on offshore locations. Drilling personnel classifications to which this standard are applicable are the Rotary Helper, Derrickman, Driller, Toolpusher, and Operator's Representative. This standard is intended for the development of training courses with well-defined curricula and includes recommendations for testing to assure that a candidate is qualified when he completes a course.

The value of work experience is acknowledged in this standard by dividing the courses into instructional and testing phases for the curricula for Driller, Toolpusher, and Operator's Representative. If a candidate can successfully pass the test covering any portion of one of those curricula, he need not take the instructional portion of that curriculum.

The employer shall maintain a record of the training which each employee receives, and each employee shall be furnished documentation of the successful completion of each level of training.

This standard should be used by a company or educational institution in developing

and conducting a qualification program as outlined above.

Sections 2 and 3 provide the basic guidelines for qualifying personnel employed on platform-type rigs (either fixed or mobile), and on floating-vessel rigs. The equipment necessarily will vary between rigs, but the basic function of the equipment and the techniques of blowout detection and control will remain essentially the same between rigs.

2. GUIDELINES FOR COURSE CURRICULA

2.1 *Introduction.* This portion of the standard describes the knowledge and skills that should be presented to the candidate through classroom lectures and hand-on demonstrations. Curriculum content is described on a general basis for each drilling crew member classification. Specific detail should be developed by each training organization using the criteria contained in this section as a guideline. A training program developed by a contractor or operator should be directed toward the well control equipment and techniques most widely used in their respective operations. Other organizations offering training programs should develop a detailed curriculum directed toward well control equipment and techniques most widely used offshore.

The training programs may be conducted wherever the particular part of the course curriculum can be presented most effectively, whether it be on the rig, in a classroom, or a training facility at another location.

Each candidate shall be provided with a manual containing the course materials for future reference and review.

2.2 ROTARY HELPER TRAINING REQUIREMENTS FOR QUALIFICATION IN WELL CONTROL OPERATIONS

2.2.1 *Prerequisite for Rotary Helper Qualification.* All candidates shall have satisfied the employment requirements of the employer.

2.2.2 *Instructions on Relevant Governmental Regulations.* The candidate shall receive initial general instructions on governmental regulations that are pertinent both to this work and to well control activities. The candidate should understand the overall purpose of the appropriate regulations.

2.2.3 *Instructions on Blowout Prevention Equipment.* The candidate shall receive general instructions within the first six months of his employment on the purpose, operation, and general maintenance of the following, consistent with his assigned duties on either a fixed-platform or floating-vessel rig.

- a. Bag-type blowout preventer with and without diverter system.
- b. Ram-type blowout preventer.
- c. Accumulator system.
- d. Drill pipe inside blowout preventer.
- e. Drill pipe safety valve.
- f. Kelly cock.
- g. Mud pit level indicator.
- h. Mud volume measuring device.
- i. Mud return indicator.
- j. Choke manifold.
- k. Gas detector.
- l. Trip tank.
- m. Mud-gas separator.

2.2.4 *Instructions on the More Obvious Warning Signs of Kicks.* The candidate shall receive instructions on the more obvious warning signs of kicks such as but not limited to:

- a. Gain in pit volume and/or increase in mud return rate.
- b. Hole not taking proper amount of mud during trips.
- c. Well flowing with pump shutdown.

2.2.5 *Instructions for Well Control Operations.* The candidate shall receive hands-on on-the-job instructions for operation of manifold, stand pipe, and mud room valves which require different settings for kill op-

erations than settings used in normal drilling operations.

2.3 DERRICKMAN TRAINING REQUIREMENTS FOR QUALIFICATION IN WELL CONTROL OPERATIONS

2.3.1 Prerequisite for Derrickman Qualification. All candidates shall have completed the training required for a Rotary Helper under Section 2.2.

2.3.2 Instructions on Relevant Governmental Regulations. The candidate shall receive instructions on governmental regulations (all applicable authorities) that pertain to his work.

2.3.3 Instructions on Blowout Prevention Equipment. The candidate shall receive instructions on the purpose, operation, and proper maintenance of the equipment below, both for fixed-platform and floating-vessel rigs.

- a. Equipment listed under 2.2.3.
- b. Degasser.
- c. Adjustable Choke.

2.3.4 Instructions on Drilling Fluids. The candidate shall receive general instructions on drilling fluids with emphasis on the following, consistent with his assigned duties:

- a. Density.
- b. Viscosity.
- c. Fluid loss.
- d. Salinity.
- e. Gas cutting.
- f. Proper procedure for increasing mud density.

2.3.5 Instructions on Warnings Signs of Kicks. The candidate shall receive general instructions on warning signs that indicate a kick or conditions that can lead to a kick, consistent with his assigned duties such as but not limited to:

- a. Items in 2.2.4 (1 through 3).
- b. Heaving shale and its appearance at surface.
- c. Drilling rate increase.
- d. Change in salinity.
- e. Change in flow properties of drilling fluid.
- f. Connection gas and background gas.

2.3.6 Instructions on Well Control Operations. The candidate shall receive detailed instructions on Item 2.2.5 and general instructions on well killing procedures.

2.4 DRILLER TRAINING REQUIREMENTS FOR QUALIFICATION IN WELL CONTROL OPERATIONS

2.4.1 Prerequisite for Driller Qualification. All candidates shall have completed the training as a Rotary Helper and Derrickman under 2.2 and 2.3 before enrolling in the Driller's course.

2.4.2 Instructions on Relevant Governmental Regulations. The candidate shall receive instructions on governmental regulations that pertain to his work with well control techniques and equipment including Spill Prevention Control and Countermeasure Plans.

Copies of applicable laws, regulations, and orders or abstracts of pertinent sections thereof shall be furnished to the candidate. The portions of these regulations that are pertinent to the candidate's work shall be clearly marked. The training organization should revise this material as necessitated by revisions or additions to these governmental requirements.

2.4.3 Instructions on What Causes Kicks. The candidate shall receive instructions on the major causes of kicks. These include:

- a. Failure to keep hole full.
- b. Swabbing on trip.
- c. Loss of circulation.
- d. Insufficient density of drilling fluid.
- e. Abnormal pressured formations.

The importance of measuring the mud required to fill the hole during trips and methods for measuring and recording hole

fill volumes shall be emphasized. Such importance shall be further emphasized for shallow gas conditions.

2.4.4 Instructions on the Warning Signals for Kicks. The candidate shall receive instructions on the warning signals that indicate a kick or condition that can lead to a kick. These include:

- a. Gain in pit volume.
- b. Increase in return mud flow rate.
- c. Hole takes less mud than calculated on trip.
- d. Drilling break.
- e. Decrease in circulating pressure or increase in pump strokes.
- f. Trip, connections, and background gas changes.
- g. Gas cut mud (which does not necessarily indicate a well kick).
- h. Water-cut mud or chloride increase.

2.4.5 Instructions for Properly Shutting in a Well for Well Control Purposes. The candidate shall receive instructions on the correct procedure for shutting in a well using the BOP system, choke manifold, and/or diverter system, both for the fixed-platform and floating-vessel type rigs. The purpose of these instructions is to ensure that a logical sequence of timely steps is followed to minimize the amount of influx, to prevent lost returns and equipment damage, and to prevent formation fluid from breaching around drive and conductor casing. As a part of these instructions, the candidate shall receive hands-on on-the-job training in operating the valves on the choke manifold; operating the diverter system; closing the annular preventer; and in the use of kelly cocks, drill pipe safety valves, and inside blowout preventers.

2.4.6 Instructions for Well Control Operations. The candidate shall receive instructions on one of the constant bottom hole pressure methods (driller's method, wait and weight method, concurrent (circulate and weight) method, etc.) of well control. This may be done by hands-on instructions at a well control school where actual flow and choking of fluids from a model well are included.

The instruction process shall include those conditions which may be unique to either the fixed-platform or the floating-vessel rig. An adequate simulator is an acceptable alternate to the model well. A complete well killing exercise shall be carried out using the simulator or a model well and work sheet simulation.

The well control school shall include classroom instructions to cover simple well control calculations and the reasons for their use. These include:

- a. Calculations of mud density increase required to control kick;
- b. Conversion between mud density and pressures, and the importance of the conversions in understanding formation breakdown, particularly with shallow casing settings;
- c. Calculating drop in pump pressure as mud density increases during kill operations;
- d. Relationship between pump pressure, pump rate, and mud density; and
- e. Pressure limitations on casings.

2.4.7 Instructions for Unusual Well Control Operations. Instructions for this section shall include an introduction to unusual well control situations to include:

- a. When drill pipe is off bottom.
- b. When out of hole.
- c. When lost circulation occurs.
- d. When shallow gas is encountered.
- e. When drill pipe is plugged.
- f. Excessive casing pressure.
- g. Hole in drill pipe.

2.4.8 Instructions for BOP Diverter and Closing Unit Installation Operations, Maintenance, and Testing. The candidate shall receive hands-on instructions on the installation, operation, maintenance, and testing of BOP's, Diverter Systems, and Closing Units.

The instructions shall be based on API RP 53, Blowout Preventer Equipment Systems, and shall contain appropriate training problems illustrating the need for proper maintenance of equipment including the need for maintaining the proper accumulator pre-charge pressures, relationship between pre-charge pressure, operating pressure, and usable volumes, etc.

2.5 TOOLPUSHER TRAINING REQUIREMENTS FOR QUALIFICATION IN WELL CONTROL PRACTICES AND TECHNIQUES

2.5.1 Prerequisite for Toolpusher Qualifications. The candidate shall have already completed the training described in Section 2.4 for the Driller.

2.5.2 Instructions on Well Control Calculations. The candidate shall receive instructions in the mathematical calculations required for well control operations. Example calculations shall be practiced in class problems. The candidate shall also receive instructions on the calculation of equivalent pressures at the casing seat with emphasis on the importance of casing seat depth.

2.5.3 Instructions on Equipment Limitations. The candidate shall receive instructions on the limitations of the various items of equipment which will be subjected to pressure and/or wear.

2.5.4 Instructions on the Mechanics Involved in Well Control Situations. The candidate shall receive instructions on and understand the mechanics involved in various well control situations. These include:

- a. Gas bubble migration and expansion;
- b. Bleeding pressure from a shut-in well during gas migration;
- c. Excessive annular surface pressures;
- d. The differences between a gas kick and a salt water and/or oil kick;
- e. The differences in fluid friction losses between the fixed-platform and floating-vessel rig when circulating out a gas kick;
- f. Procedures and problems involved in stripping and snubbing operations with drill pipe; and
- g. Special well control techniques such as freezing the drill pipe, hot tapping, barite plugs, and cement plugs.

2.5.5 Instructions on Relevant Governmental Regulations. The candidate shall receive instructions regarding those cases where field rules are applicable to the drilling operations and be familiar with the regulations to which field rules normally apply.

2.5.6 Instructions on Well Control Operations. The candidate shall receive instructions on organizing for a well control operation and, also, on subsequently directing the complete well control operation. This would include a simulation in which the candidate organizes and directs a well control operation using a model well or equivalent simulation device.

Further, the candidate shall receive instructions on the organizing and directing of a diverter operation.

2.6 OPERATOR'S REPRESENTATIVE TRAINING REQUIREMENTS FOR QUALIFICATION IN WELL CONTROL OPERATIONS

2.6.1 Prerequisite for Operator's Representative Qualification. All candidates shall be familiar with basic duties and training of Rotary Helper, Derrickman, Driller, and Toolpusher during well control situations.

2.6.2 Instructions on Relevant Governmental Regulations and Company Procedures. The candidate shall receive instructions on governmental regulations (Federal, State or local) and company practices that pertain to well control techniques and equipment. Furthermore, the candidate should understand field rules, where applicable, and be familiar with the regulations which field rules normally cover.

Further, the candidate shall receive instructions on the organizing and directing of a diverter operation.

2.6.3 Instructions for Well Control Operations. The candidate shall receive instructions at a well control school for a constant bottom hole pressure method of well control as set out under Section 2.4.6 of this standard. The candidate shall also receive instructions on the calculation of equivalent pressures at the casing seat with emphasis on importance of casing seat depth.

2.6.4 Instructions for Stripping and Snubbing Operations. The candidate shall receive instructions in the use of the entire blowout preventer system for working pipe in or out of a wellbore under well pressure.

2.6.5 Accumulator Systems. This section shall include instructions on:

- a. Charging procedures.
- b. Required volumes.
- c. Fluid pumps.
- d. Charging fluid.
- e. Inspection procedures.

2.6.6 Instructions for Detecting Abnormal Pressure. The candidate shall receive instructions on accepted techniques and procedures for detecting entry into abnormal pressure formations and accompanying warning signals which include:

- a. Penetration rate increase.
- b. Shale density change.
- c. Mud chloride change.
- d. Shale cutting characteristics.
- e. Change in background and connection gas.

2.6.7 Instructions on Supervision of Well Control Operations. The candidate shall receive instructions on organizing a well killing operation and, subsequently, should direct a complete simulated well killing operation.

Also, the candidate shall receive instructions on the organizing and directing of a diverter operation.

2.7 Relief Assignments.

2.7.1 Any employee who acts as assigned relief for another employee with a higher classification (as covered by this standard) shall meet the requirements of the higher ranking job. (Example: Derrickman reliever Driller—shall be qualified as Driller.)

3. QUALIFICATION PROCEDURES

3.1 Rotary Helper.

3.1.1 Prerequisites. a. The candidate shall have satisfied 2.2.1.

b. Before beginning qualification tests, the candidate shall be completely familiar with all items listed in Section 2.2.

3.1.2 Type of Test. The Rotary Helper qualification test will be a crew performance drill that requires the Rotary Helper to carry out his assignment in a well control drill (see Section 3.6) in a prescribed time.

3.1.3 Documentation of Test Results. The time required for the candidate to complete his assignment, as well as the type of drill, shall be recorded on the driller's log. Appropriate documentation of qualification shall be furnished to the successful candidate upon completion of the qualification procedures.

3.2 Derrickman.

3.2.1 Prerequisites. The candidate shall have satisfied 2.3 and 3.1.

3.2.2 Type of Test. The Derrickman qualification test will be a crew performance drill that requires the Derrickman to carry out his assignment in a well control drill (Section 3.6) in a prescribed time.

3.2.3 Documentation of Test Results. The time required for the candidate to complete his assignment, as well as the type of drill, shall be recorded on the driller's log. Appropriate documentation of qualification shall be furnished to the successful candidate

upon completion of the qualification procedures.

3.3 Driller.

3.3.1 Prerequisites. This candidate shall be proficient as Rotary Helper and Derrickman and must have completed the training requirements outlined in Section 2.4.

3.3.2 Qualification Tests. Written and/or verbal tests and hands-on demonstrations shall be used to verify that the candidate has a thorough understanding of the well control equipment and techniques outlined in Section 2.4.

3.3.3 Documentation of Test Results. Test results shall be entered in the candidate's training record. Appropriate documentation shall be furnished to the candidate upon completion of the qualification procedures.

3.3.4 Maintenance of Qualification. To retain his qualification, the candidate shall repeat the training requirements under Section 2.4 and repeat the qualification test outlined in 3.3.2 above at intervals not to exceed two years. In addition, he shall receive retraining in well control operations as prescribed in Section 2.4.6 herein at intervals no greater than one year.

3.4 Toolpusher.

3.4.1 Prerequisites. The candidate for Toolpusher qualification shall have passed the qualification test for Driller and must have completed the training requirements outlined in Section 2.5.

3.4.2 Qualification Tests. Written and/or verbal tests along with hands-on demonstrations shall be used to verify that the candidate has a thorough understanding of the well control equipment and technique principles outlined in Section 2.5.

3.4.3 Documentation of Test Results. Test results shall be entered in the candidate's training record. Appropriate documentation shall be furnished to the candidate upon completion of qualification procedures.

3.4.4 Maintenance of Qualification. To retain his qualification, the candidate must repeat the training requirements under Section 2.5 and repeat the qualification tests outlined in 3.4.2 above every 2 years. In addition, he shall receive retraining in well control operations as prescribed in Section 2.4.6 herein at intervals no greater than 1 year.

3.5 Operator's Representative.

3.5.1 Prerequisites. All candidates shall be familiar with the basic duties of Rotary Helper, Derrickman, Driller, and Toolpusher during well control operations and must have completed the training requirements outlined in 2.6.

3.5.2 Qualification Tests. Tests and hands-on demonstrations shall be used to assure that the Operator's Representative candidate has a thorough understanding of the well control equipment and technique principles outlined in Section 2.6 and that he is qualified to organize and direct a well control operation.

3.5.3 Documentation of Test Results. Test results shall be entered in the candidate's training record. Appropriate documentation shall be furnished to the candidate upon completion of the qualification procedures.

3.5.4 Maintenance of Qualification. To retain his qualification, the candidate must repeat the training requirements under Section 2.6 and repeat the qualification tests outlined in 3.5.2 above at intervals not to exceed two years. In addition, he shall receive retraining in well control operations as prescribed in Section 2.6.3 herein at intervals no greater than one year.

3.6 Qualification Summary.

3.6.1 The qualification procedures prescribed in the previous paragraphs of Section 3 are summarized in Exhibit I for ready reference.

3.7 Well Control Drills. The individual assignments for the crew members during a

well control operation will of necessity vary with the equipment on the offshore unit and, to a degree, with the type of operation being performed. The drills shall be designed to acquaint each crew member with his function on the particular location so he can perform it promptly and efficiently. The steps described below are general and are based upon the essentials of the operations. They should be varied to fit the equipment, personnel, and specific needs of each site. A well control drill plan, applicable to the particular site, should be prepared which outlines for each crew member the assignments he is to carry out during the drill and which establishes a prescribed time for the completion of his portion of the drill. A copy of the complete well control drill plan shall be posted on the rig's bulletin boards.

Drills should be carried out during periods of activity which would minimize the risk of sticking the drill pipe or otherwise endangering the operation. In each of these drills, the reaction time shall be measured up to the point when the designated person is in position to begin the closing sequence of the blowout preventer. Total time for the crew to complete its entire pit drill assignment shall also be measured. This operation shall be recorded on the driller's log as "Well Control Drill."

All drills should be initiated by the Toolpusher or Operator's Representative, on unscheduled or surprise hours insofar as possible, by raising the float on the pit level device or equivalent. This operation shall be performed at least once each week (well conditions permitting) with each crew. The drills should be timed so they will cover a range of different operations which include on-bottom drilling and tripping drill pipe. A diverter drill should be worked out for shallow operations.

Suggested items for inclusions in "On-Bottom Drilling" and "Tripping Pipe" drills are set out in the following Subsections 3.7.1 and 3.7.2, respectively. The listing of these items does not necessarily constitute a recommendation that each of them must be included in the drill or that the drill sequence be the same as the listing.

3.7.1 On-Bottom Drilling. A drill conducted while on bottom should include the following:

- a. Detect kick and sound alarm.
- b. Position Kelly and tool joints so connections are accessible from floor but tool joints are clear of sealing elements in stack, stop pumps, check for flow, close-in the well.
- c. Open control valve at stack and read pressure at manifold.
- d. Record drill pipe pressure and casing pressure.
- e. Measure pit gain and mark new level.
- f. Estimate volume of additional mud pits will contain.
- g. Weigh sample of mud from suction pit.
- h. Check all valves on choke manifold and blowout preventer stack for correct position (open or closed).
- i. Check BOP stack and choke manifold for leaks.
- j. Check flow line and choke exhaust lines for flow.
- k. Check accumulator pressure.
- l. Prepare to extinguish sources of ignition.
- m. Alert standby boat or prepare safety capsule for launching.
- n. Place crane operator on duty for possible personnel evacuation.
- c. Prepare to lower all escape ladders and prepare other abandonment devices for possible use.
- p. Determine materials needed to circulate out kick.

q. Time drill and enter drill report on driller's log.

3.7.2 *Tripping Pipe*. Kicks may occur while making a trip. A drill held during a trip should include the following:

- Detect kick and sound alarm.
- Install safety valve; close safety valve.
- Position pipe; close annular preventer.
- Install inside preventer; open safety valve.

e. Record casing pressure.

f. Check all valves on choke manifold and blowout stack for correct position (open or closed).

g. Check for leaks on BOP stack and choke manifold.

h. Check flow line and choke exhaust lines for flow.

i. Check accumulator pressure.

j. Prepare to extinguish sources of ignition.

k. Alert standby boat or prepare safety capsule for launching.

l. Prepare to lower escape ladders and prepare other abandonment devices for possible use.

m. Prepare to strip back to bottom.

n. Time drill and enter drill report on driller's log.

EXHIBIT I.—Summary of qualification procedures

Prerequisites	Qualification test	Documentation of test results	Maintenance of qualification
Rotary helper: Candidate shall have satisfied 2.2.1. Prior to beginning tests candidate shall be completely familiar with all items in sec. 2.2.	Will be a crew performance drill that requires the candidate to carry out his assignment of the simulated blowout drills in the prescribed time as specified in sec. 3.7.	The time required for each candidate (crew member) as well as the type drill will be recorded on the driller's log. Each candidate successfully completing this phase of training shall be provided documentation.	Qualification will be maintained by participating in weekly crew drills.
Derrickman: In addition to the above, the candidate shall have satisfied 2.3.2 through 2.3.6.	Will be a crew performance drill that requires the candidate to carry out his assignment of the simulated blowout drills in the prescribed time as specified in sec. 3.7.	The time required for each candidate (crew member) as well as the type drill will be recorded on the driller's log. Each candidate successfully completing this phase of training shall be provided documentation.	Qualification will be maintained by participating in weekly crew drills.
Driller: In addition to the above, candidate must have completed the training requirements outlined in secs. 2.4.2 through 2.4.8.	Written and/or verbal tests and hands-on demonstrations shall be used to assure that the candidate has a thorough understanding of the well control equipment and techniques outlined in sec. 2.4.	Test results shall be entered in the successful candidate's personnel record. Appropriate documentation shall be provided the successful candidate.	Training requirements outlined in sec. 2.4 and qualification test shall be repeated every two years. Well control operations training as prescribed in 2.4.6 must be repeated every year.
Toolpusher: Shall have successfully completed qualification tests for driller and must have successfully completed the training requirements outlined in secs. 2.5.2 through 2.5.6.	Written and/or verbal tests and hands-on demonstrations shall be used to assure that the candidate has a thorough understanding of well control equipment and technique principles outlined in sec. 2.5.	Test results shall be entered in the successful candidate's personnel record. Appropriate documentation shall be provided the successful candidate.	Training requirements under sec. 2.5 and qualification tests shall be repeated every two years. Well control operations training as prescribed in sec. 2.4.6 must be repeated every year.
Operator's representative: Shall be familiar with the duties of rotary helper, derrickman, driller and toolpusher during well control operations. Must have completed training requirements outlined in secs. 2.6.2 through 2.6.7.	Tests and hands-on demonstrations shall be used to assure that the candidate has a thorough understanding of well control equipment and technique principles outlined in sec. 2.6 and that he is qualified to organize and direct a well control operation.	Test results shall be entered in the successful candidate's personnel record. Appropriate documentation shall be provided the successful candidate.	Training requirements under sec. 2.6 and qualification tests shall be repeated every 2 years. Well control operations training as prescribed in sec. 2.6.3 must be repeated every year.

[FR Doc.76-31952 Filed 11-1-76;8:45 am]

Mining Enforcement and Safety Administration

NATIONAL MINE HEALTH AND SAFETY ACADEMY

Proposed Fees for Training and Use of Space

Notice is hereby given that the Mining Enforcement and Safety Administration has under consideration adoption of a schedule of fees to be charged in connection with training and use of space at the National Mine Health and Safety Academy, Beckley, West Virginia. The Academy's program is conducted under the provisions of section 502(a) of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801-960) and section 15 of the Federal Metal and Non-metallic Mine Safety Act (30 U.S.C. 721-740) authorizing education and training in the recognition, avoidance and prevention of accidents or unsafe or unhealthy working conditions in the nation's mines. Persons, other than employees of the Department of the Interior, permitted to attend training at the Academy under existing Federal statutes will be admitted on a reimbursable basis in accordance with the fees set forth in this Notice. The Secretary of the Interior may waive, in whole or in part, payments from, or in behalf of, State and local governments for the costs of their employees training at the Academy (42 U.S.C. 4222, 4742).

The proposed daily fees, which are payable upon registration, are based upon

identifiable actual costs for food, housekeeping, linens, utilities and miscellaneous expendable materials furnished by the Academy to students. These fees do not include depreciation of facilities and salaries which accrue whether the students attend the Academy or not (31 U.S.C. 483a and OMB Circular A-25).

Food	\$5.90	
Housekeeping	1.40	(\$0.70 per student if double occupancy)
Linens	.35	
Utilities	1.12	
Miscellaneous Expendable Materials	1.23	(routine supplies, materials, services and text books)

The Secretary of the Interior may permit the use of facilities at the Academy for meetings or performances, not directly related to the functions of Federal agencies or activities of employee groups, on a reimbursable actual cost basis provided such use does not adversely affect the interest of the Government (41 CFR 101-20.7).

Interested persons may comment on the proposed fees by submitting such comments in writing on or before November 30, 1976, to: Administrator, Mining Enforcement and Safety Administration, Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203.

Comments received will be available for examination at: Room 614, Office of the Administrator, Mining Enforcement

Daily fees will range from \$2.35 per day for students who do not room and board at the Academy to \$10.00 per day for students who will room and board at the Academy. The cost of providing services will be reviewed annually and fee adjustments will be made as necessary. The proposed daily fee schedule is as follows:

and Safety Administration, 4015 Wilson Boulevard, Arlington, Virginia.

Dated: October 26, 1976.

RAYMOND A. PECK, Jr.,
Deputy Assistant Secretary
of the Interior.

[FR Doc.76-32070 Filed 11-1-76;8:45 am]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Additions, Deletions, and Corrections

By notice in the FEDERAL REGISTER of February 10, 1976, Part II, there was published a list of the properties included in the National Register of Historic Places. Further notice is hereby given that certain amendments or revisions

NOTICES

in the nature of additions, deletions, or corrections to the previously published list are adopted as set out below.

It is the responsibility of all Federal agencies to take cognizance of the properties included in the National Register as herein amended and revised in accordance with section 106 of the National Historic Preservation Act of 1966, 80 Stat. 16 U.S.C. 470 et seq. (1970 ed.), and the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800.

JERRY L. ROGERS,
Acting Chief, Office of
Archeology and Historic Preservation.

The following properties have been added to the National Register since October 5, 1976. National Historic Landmarks are designated by NHL; properties recorded by the Historic American Buildings Survey are designated by HABS; and properties recorded by the Historic American Engineering Record are designated HAER.

ALABAMA

Calhoun County

Ohatchee vicinity, Janney Furnace, 1 mi. NW of Ohatchee off AL 62 (9-28-76).

Talladega County

Talladega vicinity, Elston House, 10 mi. N of Talladega on Turner's Mill Rd. (10-8-76).

ALASKA

Nome Division

Nome vicinity, Snow Creek Placer Claim No. 1, N of Nome at Snow Gulch (9-28-76).

ARIZONA

Pima County

Tucson, El Presidio Historic District, roughly bounded by W. 6th, W. Alameda Sts., N. Stone Ave. and Granada Ave. (both sides) (9-27-76).

ARKANSAS

Izard County

Melbourne vicinity, Philadelphia Methodist Church, N of Melbourne (9-29-76).

Little River County

Ashdown, Little River County Courthouse, Main and 2nd Sts. (9-29-76).

Phillips County

Helena, Kitchens, Richard L., Post No. 41, 409 Porter St. (9-30-76).

Sharp County

Evening Shade, Herrn House, W. Main St. (9-29-76).

Stone County

Mountain View, Stone County Courthouse, Courthouse Sq. (9-29-76).

CALIFORNIA

Contra Costa County

Berkeley vicinity, Hershell-Spillman Merry-Go-Round, E of Berkeley in Tilden Regional Park (9-29-76).

COLORADO

Grand County

Grand Lake vicinity, Grand River Ditch, N of Grand Lake (9-29-76).

Jefferson County

Morrison, Morrison Historic District, CO 8 (9-28-76).

Mineral County

Creede vicinity, Wagon Wheel Gap Railroad Station, SE of Creede at Wagon Wheel Gap, off CO 149 (9-27-76).

Pueblo County

Pueblo, Quaker Flour Mill, 102 S. Onelda St. (9-30-76).

DELAWARE

New Castle County

Wilmington vicinity, Brinley Farm, W of Wilmington at Barley Mill Rd. and Kennett Pike (9-28-76).

Sussex County

Bethany Beach vicinity, Indian River Life Saving Service Station, N of Bethany Beach on DE 14 (9-29-76).

GEORGIA

Wilkes County

Danburg, Anderson House, GA 44 (9-29-76).

IDAHO

Idaho

Custer County

Clayton vicinity, East Fork Lookout, S of Clayton (9-27-76).

ILLINOIS

Knox County

Galesburg, Central Congressional Church, Central Sq. (9-30-76).

INDIANA

Dearborn County

Aurora vicinity, Laughery Creek Bridge, S of Aurora W of IN 56 (9-29-76) HAER (also in Ohio County).

Henry County

Knightstown, Knightstown Academy, Cary St. (9-29-76).

Newton County

Brook vicinity, Ade, George, House, E of Brook off IN 16 (9-27-76).

Ohio County

Laughery Creek Bridge. See Reference—Dearborn County.

IOWA

Allamakee County

New Albin, Iron Post, N end of Main St. (9-29-76).

Lee County

Ft. Madison, Lee County Courthouse, 701 Avenue F (9-30-76).

KENTUCKY

Davies County

Owensboro, Smith, Major Hampden, House, 909 Frederica St. (9-28-76).

Robertson County

Mt. Olivet vicinity, Johnson Creek Covered Bridge, NE of Mt. Olivet on SR 1029 (9-27-76).

LOUISIANA

Orleans Parish

New Orleans, Irish Channel Area Architectural District, roughly bounded by Jackson Ave., Aline and Magazine Sts., and the Mississippi River (9-29-76).

MAINE

Androscoggin County

Lewiston, Frye, Sen. William P., House, 453-461 Main St. (10-8-76).

Lincoln County

Newcastle, St. Andrew's Church, Glidden St. (10-8-76).

York County

North Berwick vicinity, Morrell House, N of N. Berwick on Bauneg Beg Pond Rd. (9-29-76).

MARYLAND

Wicomico County

Salisbury, Jackson, Sen. William P., House, 514 Camden Ave. (9-28-76).

MASSACHUSETTS

Bristol County

Fall River, U.S.S. Joseph P. Kennedy Jr., Battleship Cove (9-30-76).

Fall River, U.S.S. Longfish, Battleship Cove (9-30-76).

Fall River, U.S.S. Massachusetts, Battleship Cove (9-30-76).

Plymouth County

Scituate Center, Lawson Tower, off First Parish Rd. (9-28-76).

MICHIGAN

Alger County

Munising, Lobb House, 203 W. Onota St. (10-8-76).

Charlevoix County

Charlevoix vicinity, Mt. McSaubia Site (9-29-76).

Wayne County

Detroit, Harper Hospital, John R St. (9-30-76).

MINNESOTA

Goodhue County

Red Wing, Carlson G. A., Lime Kiln, E. 5th St. (9-27-76).

MISSISSIPPI

Monroe County

Aberdeen, U.S. Courthouse and Post Office, 201 W. Commerce St. (9-29-76).

MISSOURI

Boone County

Rocheport, Rocheport, MO 240 (10-8-76).

St. Louis (independent city)

Fox Theater, 527 N. Grand Blvd. (10-8-76).

MONTANA

Beaverhead County

Dillon vicinity, LaMarche Game Trap (9-28-76).

Glacier County

Babb vicinity, Many Glacier Hotel Historic District, W of Babb (9-29-76).

NEW HAMPSHIRE

Rockingham County

Exeter, Gilman Garrison House, 12 Water St. (9-27-76) HABS.

NEW JERSEY

Union County

Mountainside vicinity, Badgley House and Site, N of Mountainside off New Providence Rd., Watchung Reservation (9-27-76).

NEW YORK**Monroe County**

Rochester, Erie Canal: Second Genesee Aqueduct, Broad St. (9-29-76).

Orleans County

Albion, Mt. Albion Cemetery, NY 31 (9-27-76).

Westchester County

North White Plains, Miller House, Virginia Rd. (9-29-76).
White Plains, Mapleton, 52 N. Broadway (9-28-76).

OHIO**Montgomery County**

Dayton, Rubicon Farm, 1815 Brown St. (9-29-76).

Preble County

Fairhaven vicinity, Harshman Covered Bridge, 4 mi. N of Fairhaven on Concord-Fairhaven Rd. spanning Four Mile Creek (9-29-76).

OKLAHOMA**Kay County**

Blackwell, Electric Park Pavilion, 300 S. Main (9-29-76).
Ponca City, Maryland-Paris House, 1000 E. Grand (9-28-76).

McCurain County

Idabel, Spaulding-Olive House, 601 SE Adams (9-28-76).

Oklahoma County

Oklahoma City, Capitol-Lincoln Terrace Historic District, irregular pattern roughly bounded by 13th, 23rd, Lincoln Blvd. and Kelley Ave. (9-30-76).

Tulsa County

Tulsa, Creek Council Tree Site, 18th and Cheyenne Sts. (9-29-76).

PENNSYLVANIA**Allegheny County**

Pittsburgh, Highland Towers Apartments, 340 S. Highland Ave. (9-28-76).

Dauphin County

Middleton, Swatara Ferry House, 400 Swatara St. (9-27-76).

Delaware County

Upland, Pusey-Crozier Mill Historic District, Race St. (9-27-76).

Washington County

Washington vicinity, Trinity Hall, 1 mi. S of Washington on PA 18 (9-27-76).

RHODE ISLAND**Providence County**

Providence, Covell Street School, 231 Amherst St. (9-30-76).

SOUTH DAKOTA**Brown County**

Aberdeen, Minneapolis and St. Louis Railroad Depot, 1100 S. Main St. (9-28-76).

TEXAS**Presidio County**

Shafter vicinity, Fortin de la Cienega, 15 mi. NE of Shafter on Cienega Creek (10-8-76).

TRUST TERRITORY OF THE PACIFIC ISLANDS**Mariana Islands District**

Saipan, Suicide Cliff, Banadero (9-30-76).

Marshall Islands District

Likiep Atoll, deBrum House, Likiep Island (9-30-76).

Majuro Atoll, Marshall Islands War Memorial Park, Kalap Island (9-30-76).

Palau District

Babelthuap Island, Bai Ra Irrai, Airal (9-30-76).

Babelthuap Island, Ked Ra Ngchemiang, Almelik (9-30-76).

Babelthuap Island, Meteu 'L Klechem, Melekeok (9-30-76).

Babelthuap Island, Odalmelech, Melekeok (9-30-76).

Babelthuap Island, Ongeluluul, Melekeok (9-30-76).

Ponape District

Eastern Caroline Islands, Chief Agriculturist House, Kolonia (9-30-76).

Eastern Caroline Islands, German Cemetery, Kolonia (9-30-76).

Eastern Caroline Islands, Japanese Artillery Road and Pohndolap Area, Sokehs (9-30-76).

Eastern Caroline Islands, Japanese Elementary School for Ponapean Children, Kolonia (9-30-76).

Eastern Caroline Islands, Japanese Hydro-Electric Power Plant, Kolonia (9-30-76).

Eastern Caroline Islands, Japanese Shrine, Kolonia (9-30-76).

Eastern Caroline Islands, Sokehs Mass Grave Site, Kolonia (9-30-76).

Truk District

Dublon Island, Japanese Army Headquarters, Roro (9-30-76).

Moen Island, St. Xavier Academy, Winipis (9-30-76).

Moen Island, Tonnachau Mountain, Iras (9-30-76).

Moen Island, Tonota Guns and Caves, Nantaku (9-30-76).

Moen Island, Truk Lagoon Underwater Fleet (9-30-76).

Moen Island, Wiichen Men's Meetinghouse Site, Peniesene (9-30-76).

Yap District

Balebat, Rull Men's Meetinghouse, Rull (9-30-76).

Kolonia, Spanish Fort (9-30-76).

Kolonia vicinity, O'Keefe's Island (9-30-76).

UTAH**Salt Lake County**

Salt Lake City, Bertolini Block, 143 1/2-147 W. 200 South (9-29-76).

Salt Lake City, Constitution Building, 34 S. W. 200 South (9-29-76).

Salt Lake City, Orpheum Theatre (Capitol Theatre), 46 West 2nd South (9-30-76).

VIRGIN ISLANDS**St. Croix Island**

Christiansted vicinity, Fair Plain Archeological District, W of Christiansted (9-29-76).

Frederiksted vicinity, St. Georges Archeological Site, E of Frederiksted (9-29-76).

VIRGINIA**Mecklenburg County**

Boydton, Boyd's Tavern, Washington St. (9-29-76).

WASHINGTON**Spokane County**

Cheney vicinity, Italian Rock Ovens, S of Chaney (9-29-76).

WISCONSIN**Bayfield County**

Bayfield vicinity, Sevona Cabin, N of Bayfield on Sand Island (9-29-76).

Fond du Lac County

Ripon, Pedrick, Marcellus, House, 515 Ransom Ave. (9-29-76).

Winnebago County

Eureka vicinity, Eureka Lock and Lock Tender's House, S of Eureka on Fox River (9-29-76).

The following is a list of corrections to properties previously listed in the FEDERAL REGISTER.

CONNECTICUT**Fairfield County**

Ridgefield, Remington, Frederic, House (10-15-66) NHL.

MINNESOTA**Steele County**

Owatonna, National Farmers Bank, N Cedar St. and E. Broadway (8-26-71) NHL.

The following property has been demolished and therefore removed from the National Register of Historic Places.

TEXAS**Trinity County**

Trinity, McDonald, Ranald, House, Maple and San Jacinto.

The following properties have been determined to be eligible for inclusion in the National Register. All determinations of eligibility are made at the request of the concerned Federal Agency under the authorities in section 2(b) and 1(3) of Executive Order 11593 as implemented by the Advisory Council on Historic Preservation, 36 CFR Part 800. This listing is not complete. Pursuant to the authorities discussed herein, an Agency Official shall refer any questionable actions to the Director, Office of Archeology and Historic Preservation, National Park Service, Department of the Interior, for an opinion respecting a property's eligibility for inclusion in the National Register.

Historical properties which are determined to be eligible for inclusion in the National Register of Historic Places are entitled to protection pursuant to the procedures of the Advisory Council on Historic Preservation, 36 CFR Part 800. Agencies are advised that in accord with the procedures of the Advisory Council on Historic Preservation, before an agency of the Federal Government may undertake any project which may have an effect on such a property, the Advisory Council on Historic Preservation shall be given an opportunity to comment on the proposal.

ALABAMA**Greene County**

Gainesville vicinity, Archeological Sites in Gainesville Project, Tombigbee Waterway (also in Pickens and Sumter counties).

Jefferson County

Site 1Je36, Project I-459-4(4).

Madison County

Huntsville, Lee House, Red Stone Arsenal.

NOTICES

Maricopa County

Site U:1:30 (ASU).
Site U:1:31 (ASU).

Washington County

Sunflower vicinity, Dr. Williams Home, AL
project RF-98(7).

ALASKA

Nome Division

Little Diomed Island, Iyapana, John, House.

ARIZONA

Apache County

Grand Canyon National Park, Old Post Office.

Coconino County

House Rock Springs, Upper Houserock Valley
Paria Plateau Archeological District

Graham County

Foot Wash—No Name Wash Archeological
District.

Mohave County

Colorado City vicinity, Short Creek Reser-
voir Sites NA 13,257, and NA 13,258.

Maricopa County

Cave Creek Archeological District.
New River Dams Archeological District.
Site T:4:6.

Site U:1:30 (A.S.U.)

Site U:1:31 (A.S.U.)

Skunk Creek Archeological District.

Navajo County

Polacca vicinity, Walpi Hopi Village, adjacent
to Polacca.

Pima County

Tucson, Convento Site.

Tucson vicinity, Old Santan, NW of Tucson.

Yavapai County

Copper Basin Archeological District, Prescott
National Forest.

Yuma County

Eagle Tail Mountains Archeological Site.
Yuma, Southern Pacific Depot.

ARKANSAS

Archeological Sites, Black River Watershed.

Clay County

Site 3CY34, Little Black River Watershed.

Faulkner County

Site 3WH145, E fork of Cadron Creek Water-
shed (also in White county).
Sites 3VB49-3VB51, N fork Cadron Creek
Watershed.

Hempstead County

Archeological Sites in Ozan Creeks Watershed

Ouachita County

Camden, Old Post Office, Washington St.

CALIFORNIA

Archeological Sites, Buchanan Dam at Chow-
chilla River.

Amador County

Amador City, 35 mi. SE of Sacramento.

Benito County

Chalone Creek Archeological Sites, Pinnacles
National Monument.

Calaveras County

New Melones Historical District, New
Melones Lake Project area, Stanislaus
River (also in Tuolumne County).

Colusa County

Stoneyford vicinity, Upper and Lower Letts
Valley Historical District, 12 mi. SW of
Stoneyford.

Del Norte County

Chimney Rock, Six Rivers National Forest.
Doctor Rock, Six Rivers National Forest.
Peak No. 8, Six Rivers National Forest.

El Dorado County

Site Eld-58.
Giebenhahn House and Mountain Brewery
Complex.

Fresno County

Gamlin Cabin, King's Canyon National Park.
Helms Pumped Storage Archeological Sites.
Sierra National Forest.
Muir Hut, Kings Canyon National Park.

Glenn County

Willows vicinity, White Hawk Top Site, Twin
Rocks Ridge Road Reconstruction project.

Imperial County

Glamis vicinity, Chocolate Mountain Archeo-
logical District.
Lake Calhulla, Lot 1.
Lake Calhulla, Lot 5.

Inyo County

Scotty's Castle, Death Valley National Monu-
ment.
Scotty's Ranch, Death Valley National Monu-
ment.
The 20-Mule Team Borax Wagon Road (also
in Kern and San Francisco counties).

Kern County

Site Ca-Ker-322.

Lassen County

Archeological Site HJ-1 and HJ-5.

Los Angeles County

Big Tujunga Prehistoric Archeological Site,
I 210 Project.
Los Angeles, Fire Station No. 26, 2475 W.
Washington Blvd
Simi Valley, Archeological Site Ven-341.
Van Norman Reservoir, Site CA-LAN 646, CA-
LAN 643, Site CA-LAN 490, and a cluster
made up of Sites CA-LAN, 475, 491, 492,
and 493.

Madera County

Bass Lake Archeological Sites.
CA-MAD 176-185.
Lower China Crossing.
New Site.

Marin County

Point Reyes, Olema Lime Kilns, Point Reyes
National Seashore.
Point Reyes, P. E. Booth Company Pier, Point
Reyes National Seashore.
Point Reyes, Point Reyes Light Station.

Modoc County

Alturas vicinity, Rail Spring, about 30 mi. N
of Alturas in Modoc National Forest.
Tulelake vicinity, Lava Bed National Monu-
ment Archeological District, S of Tulelake
(also in Siskiyou County).

Mono County

Archeological Site CA-MNO-584.

Monterey County

Big Sur, Point Sur Light Station.
Pacific Grove, Point Pinos Light Station.

Napa County

Archeological Sites 4-Nap-14, 4-Nap-261,
Napa River Flood Control Project.

Plumas County

Mineral, Hay Barn and Cook's Cabin, Drakes-
bad (Siford Family) Guest House, Lassen
Volcanic National Park.
Mineral, Summit Lake Ranger Station, Las-
sen Volcanic National Park.

Riverside County

Twentynine Palms, Cottonwood Oasis (Cot-
tonwood Springs), Joshua Tree National
Monument.
Twentynine Palms, Lost Horse Mine, Joshua
Tree National Monument.

Sacramento County

Sacramento River Bank Protection Project,
Site 1, Sacramento River.
Sacramento, Tower Bridge, M St. over Sacra-
mento River (also in Yolo County).

San Bernardino County

Trona Pinnacles Railroad Camp.
Twentynine Palms, Keys, Bill, Ranch, Joshua
Tree National Monument.
Twentynine Palms, Twentynine Palms Oasis,
Joshua Tree National Monument.

San Diego County

North Island, Camp Howard, U.S. Marine
Corps, Naval Air Station.
North Island, Rockwell Field, Naval Air
Station.
San Diego, Marine Corps Recruit Depot, Bar-
nett Ave.

San Francisco County

San Francisco, Point Lobos Archeological
Sites (SFR-5, 21, 24), Golden Gate Na-
tional Recreation Area.
San Francisco, Twin Peaks Tunnel.

San Luis Obispo County

New Cuyana vicinity, Caliente Mountain Air-
craft Lookout Tower, 13 mi. NW of New
Cuyana off Rte. 166.
San Luis Obispo, San Luis Obispo Light Sta-
tion.

San Mateo County

Ano Nuevo vicinity, Pigeon Point Light Sta-
tion.
Hillsborough, Point Montara Light Station.

Santa Barbara County

Santa Barbara, Site SBA-1330, Santa Monica
Creek.

Santa Clara County

Sunnyvale, Theuerkauf House, Naval Air
Station, Moffett Field.

Shasta County

Mineral, Comfort Station, Lassen Volcanic
National Park.
Mineral, Park Entrance Station and Resi-
dence, Lassen Volcanic National Park.
Mineral, Park Naturalist's Residence, Lassen
Volcanic National Park.
Mineral, Warner Valley Ranger Station, Las-
sen Volcanic National Park.
Redding vicinity, Squaw Creek Archeological
Site, NE of Redding.
Whiskeytown, Irrigation System (165 and
166), Whiskeytown National Recreation
Area.

Sierra County

Archeological Site HJ-5 (Border Site 26WA-
1676).
Properties in Bass Lake Sewer Project.

Siskiyou County

Thomas-Wright Battle Site, Lava Beds Na-
tional Monument.

Sonoma County

Dry Creek-Warm Springs Valley Archeological District.
 Petaluma, Farrell Home, 500 E. Washington St.
 Santa Rosa, Santa Rosa Post Office.

Tehama County

Los Molinos vicinity, Ishi Site (Yahi Camp), E of Los Molinos in Deer Creek Canyon.

Tulare County

Atwell's Mill, Sequoia National Park.
 Cattle Cabin, Sequoia National Park.
 Quinn Ranger Station.
 Sharp's Log.
 Smithsonian Institution Shelters.
 Squatter's Cabin.

COLORADO**Denver County**

Denver, Eisenhower Memorial Chapel, Building No. 27, Reeves St., on Lowry AFB.

Douglas County

Keystone Railroad Bridge, Pike National Forest.

El Paso County

Colorado Springs, Alamo Hotel, corner of Tejon and Cucharas Sts.
 Colorado Springs, Old El Paso County Jail, corner of Vermijo and Cascade Ave.

Larimer County

Estes Park, Beaver Meadows Maintenance Area, Rocky Mountain National Park utility area.
 Sites 5-LR-257 and 5-LR-263, Boxelder Watershed Project.

Moffat County

White Indian Contact Site.

CONNECTICUT**Fairfield County**

Norwalk, Washington Street—S. Main Street Area.

Hartford County

Hartford, Houses on Charter Oak Place.
 Hartford, Houses on Wethersfield Avenue, between Morris and Wyllys Sts., particularly Nos. 97-81, 65.
 Southington, Lewis, Sally, House, 500 N. Main St.

New London County

New London, Washington Street Historic District, project 103-159.
 New London, Williams Memorial Institute Building, 110 Broad St.

DELAWARE**Sussex County**

Lewes, Delaware Breakwater. Harbor of Refuge Breakwater.

DISTRICT OF COLUMBIA

Auditors' Building, 201 14th St. SW.
 Brick Sentry Tower and Wall, along M St. SW, between 4th and 6th Sts. SW.
 Central Heating Plant, 13th and C Sts. SW.
 1700 Block Q Street NW, 1700-1744, 1746, 1748 Que St. NW.: 1536, 1538, 1540, 1602, 1604, 1606, 1608, 17th St. NW.

FLORIDA**Broward County**

Hillsboro Inlet, Coast Guard Light Station.

Collier County

Marco Island, Archeological Sites on Marco Island.

Monroe County

Knights Key Moser Channel—Packet Channel Bridge (Seven Mile Bridge)
 Long Key Bridge
 Old Bahia Honda Bridge

Pinellas County

Bay Pines, VA Center, Sections 2, 3, and 11 TWP 31-S, R-15E.

GEORGIA**Bibb County**

Macon, Vineville Avenue Area, both sides of Vineville Ave. from Forsyth and Hardman Sts. to Pio Nono Ave.

Chatham County

Archeological Site, end of Skidway Island.
 Savannah, 516 Ott Street.

Savannah, 908 Wheaton Street.
 Savannah, 914 Wheaton Street.
 Savannah, 920 Wheaton Street.
 Savannah, 828 Wheaton Street.
 Savannah, 930 Wheaton Street.

Chatooga County

Archeological Sites in area of Structure 1-M, and Trion Dikes 1 and 2, headwaters of Chatooga Watershed (also in Walker County).

Clay County

Archeological Site WGC-73, downstream from Walter F. George Dam.

De Kalb County

Atlanta, Atkins Park Subdivision, St. Augustine, St. Charles, and St. Louis places.
 Decatur, Sycamore Street Area.

Fulton County

Atlanta, Downtown Atlanta Historic District, beginning at Jct. Atlanta St. and Central Ave.

Gordon County

Haynes, Cleo, House and Frame Structure, University of Georgia.
 Moss—Kelly House, Sallacoa Creek area.

Gwinnett County

Duluth, Hudgins, Scott, Home (Charles W. Summerour House), McClure Rd.

Heard County

Philpott Homesite and Cemetery, on bluff above Chattahoochee River where Grayson Trail leads into river.

Richmond County

Archeological Sites Project F-117-1 (7).
 Augusta, Blanche Mill.
 Augusta, Enterprise Mill.
 Augusta, Green Street.

Stewart County

Rood Mounds, Walter F. George Dam and Reservoir.

Sumter County

Americus, Aboriginal Chert Quarry, Souther Field.

HAWAII**Hawaii County**

Hawaii Volcanoes National Park, Mauna Loa Trail.

Maui County

Hana vicinity, Kipahulu Historic District, SW of Hana on Rts. 31.

Oahu County

Moanalua Valley.

IDAHO**Ada County**

Boise, Alexanders, 826 Main St.
 Boise, Falks Department Store, 100 N. 8th St.
 Boise, Idaho Building, 216 N. 8th St.
 Boise, Simplot Building (Boise City National Bank), 805 Idaho St.
 Boise, Union Building, 712½ Idaho St.

Clearwater County

Orofino vicinity, Canoe Camp—Suite 18, W. of Orofino on U.S. 12 in Nez Perce National Historical Park.

Gem County

Marsh and Ireton Ranch, Montour Flood project.
 Town of Montour, Montour Flood project.

Idaho County

Kamiah vicinity, East Kamiah—Suite 15, SE of Kamiah on U.S. 12 in Nez Perce National Historical Park.

Lemhi County

Tendoy, Lewis and Clark Trail, Pattee Creek Camp.

Nez Perce County

Lapwai, Fort Lapwai Officer's Quarters, Phinney Dr. and C St. in Nez Perce National Park.

Lapwai, Spalding.
 Lewiston, Fir Building, 211-213 Main St.
 Lewiston, Lower Snake River Archeological District
 Lewiston, Moxley Building, 215 Main St.
 Lewiston, Scully Building, 209 Main St.

Power County

Snake River, Old Island Power Plant, American Falls Dam project.

ILLINOIS**Carroll County**

Savanna vicinity, Spring Lake Cross Dike Island Archeological Site, 2 mi. SE of Savanna.

Cook County

Chicago, Ogden Building, 180 W. Lake St.
 Chicago, Oliver Building, 159 N. Dearborn St.
 Chicago, Springer Block (Bay, State, and Kranz Buildings), 126-146 N. State St.
 Chicago, Unity Building, 127 N. Dearborn St.

De Kalb County

De Kalb, Haish Barbed Wire Factory, corner of 6th and Lincoln Sts.

Lake County

Fort Sheridan, Museum Bldg. 33, Lyster Rd.
 Fort Sheridan, Water Tower, Bldg. 49, Leonard Wood Ave.

Madison County

American Bottoms, 69 archeological sites in Madison, Monroe, and St. Clair counties.

Williamson County

Wolf Creek Aboriginal Mound, Crab Orchard National Wildlife Refuge.

INDIANA**Lawrence County**

Mitchell, Riley School.

Marion County

Indianapolis, Lockfield Gardens Public Housing Project, 900 Indiana Ave.

Monroe County

Bloomington, Carnegie Library.

Orange County

Cox Site, Lost River Watershed.
Half Moon Spring, Lost River Watershed.

St. Joseph County

Mishawaka, 100 NW Block, properties fronting N. Main St. and W. Lincoln Way.

Spencer County

Evansville, Pollard, Maier, House.

Vanderburgh County

Evansville, Riverside Neighborhood.

Vermillion County

Houses in SR 63/32 Project, jct. of SR 32 and SR 63 and 1st rd. S. of Jct.

IOWA**Boone County**

Saylorville Archeological District (also in Polk and Dallas counties).

Johnson County

Indian Lookout.

Muscatine County

Muscatine, Clark, Alexander, Property, 125-123 W. 3rd and 307, 309 Chestnut.

KANSAS**Douglas County**

Lawrence, Curtis Hall (Kiva Hall), Haskell Institute.

Pottawatomie County

Coffey Archeological Site, 14 PO 1.

KENTUCKY**Louisa County**

Fort Ancient Archeological Site.

Trigg County

Golden Pond, Center Furnace, N of Golden Pond on Bugg Spring Rd.

LOUISIANA**East Baton Rouge Parish**

Baton Rouge, Spanish Town, Baton Rouge.

Orleans Parish

American Sector, Central City District Bywater District.

St. Martins Parish

Site 16, Sm-45, Atchafalaya Basin Floodway.

MARYLAND**Allegany County**

Flintstone vicinity, Martin Gordon Farm, Breakneck Rd. (Rte. 1).

Flintstone vicinity, Martins Mountain Farm, Breakneck Rd. (Rte. 1).

Anne Arundel County

Claborn, Bloody Point Bar Light, on Chesapeake Bay.

Skidmore, Sandy Point Shoal Light, on Chesapeake Bay.

Baltimore County

Fort Howard, Craghill Channel Upper Range Front Light, on Chesapeake Bay.

New Owings Mills Railroad Station, W of Reisterstown Rd.

Old Owings Mills Railroad Station, Reisterstown Rd.

Sparrows Point, Craghill Channel Range Front Light, on Chesapeake Bay.

Carroll County

Bridge No. 1-141 on Hughes Road.

Cecil County

Sassafras Elk Neck, Turkey Point Light, at Elk River and Chesapeake Bay.

Dorchester County

Hoppersville, Hooper Island Light, Chesapeake Bay-Middle Hooper Island.

St. Marys County

Piney Point, Piney Point Light Station.

St. Inigoes, St. Inigoes Manor House, Naval Electronic System Test and Evaluation Detachment.

St. Marys City, Point No Point Light, on Chesapeake Bay.

Talbot County

Tilghman Island, Sharps Island Light, on Chesapeake Bay.

MASSACHUSETTS**Barnstable County**

North Eastham, French Cable Hut, jct. of Cable Rd. and Ocean View Dr.

Rider, Samuel House, Gull Pond Rd. off Mid-Cape Hwy. 6.

Truro, Highland Gold Course, Cape Cod Light area.

Truro, Highland House, Cape Code Light (Highland Light) area.

Wellfleet vicinity, Atwood-Higgins House, Boundbrook Island.

Bristol County

New Bedford, Fire Station No. 4, 79 S. 6th St.

Hampden County

Holyoke, Caledonia Building (Crafts Building), 185-193 High St.

Holyoke, Cleary Building (Stiles Building), 190-196 High St.

Holyoke, Steamer Company No. 3.

Middlesex County

Wayland, Old Town Bridge (Four Arch Bridge, Rte. 217, 1.5 m. NW of Rte. 126 Jct.

Worcester County

Leicester, Shaw Site (Sites 4, 5, and 6), Upper Quabog River Watershed project.

North Brookfield, Meadow Site No. 11, Upper Quabog River Watershed.

Worcester, Oxford-Crown Streets District, Chatham, Congress, Crown, Pleasant, Oxford Sts., and Oxford Pl.

MICHIGAN

Little Forks Archeological District.

MINNESOTA**St. Louis County**

Duluth, Morgan Park Historic District.

Winona County

Winona, Second Street Commercial Block.

MISSISSIPPI**Lowndes County**

Tibbee Creek Archeological Site, Columbus lock and dam project.

Tishomingo County

Tennessee-Tombigbee Waterway

MISSOURI**Buchanan County**

St. Joseph, Hall Street Historic District, bounded by 4th St. on W. Robidoux on S. 10th on E., and Michel, Corby, and Ridenbaugh on N.

Dent County

Lake Spring, Hyer, John, House.

Franklin County

Leslie, Noser's Mill and adjacent Miller's House, Rural Rte. 1.

Greene County

Springfield, Landers Theater, 311 East Walnut St.

Henry County

La Due, Batschelett House, near Harry S. Truman Dam and Reservoir.

Little Black River Watershed (also in Ripley County).

Monroe County

Violette, Alexander, House.

MONTANA**Big Horn County**

Fort Smith, Big Horn Canal Headgate.

Carbon County

Hardin, Pretty Creek Site (Hough Creek Site), Big Horn Canyon National Recreation Area.

Custer County

"Old Fort" at Fort Keogh.

Fergus County

Lewis & Clark, Campsite, May 23, 1805.

Lewis & Clark, Campsite, May 24, 1805.

Lewis and Clark County

Marysville, Marysville Historic District.

NEBRASKA**Cherry County**

Valentine vicinity, Fort Niobrara National Wildlife Refuge.

Valentine vicinity, Newman Brothers House.

NEVADA**Clark County**

Las Vegas vicinity, Blacksmith Shop, Desert National Wildlife Range.

Las Vegas vicinity, Mesquite House, Desert National Wildlife Range.

Elko County

Carlin vicinity, Archeological Sites 26EK1669-26EK1672.

Nye County

Las Vegas vicinity, Emigrant's Trail, about 75 mi. NW of Las Vegas on U.S. 95.

Pershing County

Lovelock vicinity, Adobe in Ruddell Ranch Complex.

Lovelock vicinity, Lovelock Chinese Settlement Site.

Storey County

Sparks vicinity, Derby Diversion Dam, on the Truckee River 19 mi. E of Sparks, along I 80 (also in Washoe County).

NEW HAMPSHIRE**Hillsborough County**

Smyth Tower.

Rockingham County

Portsmouth, Pulpit Rock Observation Station, Portsmouth Harbor.

Strafford County

Odd Fellow's Hall (Morning Star Block).

O'Neill House (Cocheco Co. Housing).

Public Market (Morrill Block).

Trella House (Dover Manufacturing Co. Housing).

Veteran's Building (Central Fire House).

Western Auto Block (Merchants Row).

NEW JERSEY**Hudson County**

S.S. Newton, midway between Ellis and Liberty Islands.

Mercer County

Hamilton and West Windsor Townships, *Assunpink Historic District*.
West Windsor Township Wastewater Facilities.

Middlesex County

New Brunswick, Delaware and Raritan Canal, between Albany St. Bridge and Landing Lane Bridge.

Monmouth County

Long Branch, *The Reservation*, 1-9 New Ocean Ave.

Sussex County

Old Mine Road Historic District (also in Warren County).

NEW MEXICO**Chaves County**

Cites LA11809-LA11822, Cottonwood-Walnut Creek Watershed (also in Eddy County).

Dona Ana County

Placitas Arroyo, Sites SCSA 1-8.

Lea County

Laguna Plata Archeological District.

McKinley County

Zuni Pueblo Watershed, Oak Wash Sites N.M.G.:13:19-N.M.G.:13:37.

Otero County

Three Rivers Petroglyphs.

Rio Arriba County

Cerrito Recreation Site Archeological District.

NEW YORK**Albany County**

Guilderland, *Nott Prehistoric Site*.
Tetilla Peak Site.

Bronx County

New York, *Bronx Post Office*.
New York, *North Brothers Island Light Station*, in center of East River.

Broome County

Mill Site at Site 7-A, Manticoke Creek project (also in Tioga County).
Vestal, *Vestal Nursery Site*, Vestal Project (also in Union County).

Chautauqua County

Dunkirk, *Properties in the city of Dunkirk*.
Loomis Archeological Site; South and Central Chautauqua Lake

Greene County

New York, *Hudson City Light Station*, in center of Hudson River.

Nassau County

Greenvale, *Toll Gate House*, Northern Blvd.
Long Island, *Seaford Park Archeological Site*.

New York County

New York, *Harlem Courthouse*, 170 E. 121st St.

New York, *New York Cancer Hospital (Towers Nursing Home)*, 2 W. 106th St.

Orange County

Port Jervis, *Church Street School*, 55 Church St.

Port Jervis, *Farnum, Samuel, House*, 21 Ulster Pl.

Oswago County

Gustin-Earle Factory Site, village of Mexico.

Otsego County

Swart-Wilcox House

Richmond County

New York, *Romer Shoal Light Station*, located in lower bay area of New York Harbor.

Saratoga County

Saratoga Springs, *Saratoga Springs Historic District*.

Schuylerville, *Archeological Site*, Schuylerville Water Pollution Control Facility.

Schoharie County

Breakabeen, *Breakabeen Historic District*, between village of North Blenheim and Breakabeen.

Staten Island

Tottenville, *Ward's Point*, Oakwood Beach Project

Suffolk County

Janesport vicinity, *East End Site*.

Janesport vicinity, *Hallock's Pond Site*.

New York, *Fire Island Light Station*, U.S. Coast Guard Station.

New York, *Little Gull Island Light Station*, off North Point of Orient Point, Long Island.

New York, *Plum Island Light Station*, off Orient Point, Long Island.

New York, *Race Rock Light Station*, S. of Fishers Island, 10 mi. N. of Orient Point.

Northville Historic District, houses along Sound Ave.

Ulster County

Kingston vicinity, *Esopus Meadows Light Station*, middle of Hudson River.

New York, *Rondout North Dike Light*, center of Hudson River at Jct. of Rondout Creek and Hudson River.

New York, *Saugerties Light Station*, Hudson River.

Washington County

Greenwich, *Palmer Mill (Old Mill)*, Mill St.

Westchester County

Port Washington vicinity, *Execution Rocks Light Station*, lower SW portion of Long Island Sound.

Yorktown, *Yorktown Railroad Station*.

NORTH CAROLINA**Alamance County**

Burlington, *Southern Railway Passenger Depot*, NE corner Main and Webb Sts.

Brunswick County

Southport, *Fort Johnston*, Moore St.

Caswell County

Archeological Sites CS-12, County Line Creek Watershed Project (also in Rockingham County).

Womack's Mill, in County Creek Watershed Project (also in Rockingham County).

Cleveland County

Archeological Resources in Second Broad River Watershed Project (also in Rutherford County).

Cumberland County

Fayetteville, *Veterans Administration Hospital Confederate Breastworks*, 23 Ramsey St.

Dare County

Buxton, *Cape Hatteras Light*, Cape Hatteras National Seashore.

Hyde County

Ocracoke, *Ocracoke Lighthouse*.

NORTH DAKOTA**Burleigh County**

Bismarck, *Fort Lincoln Site*.

OHIO**Clermont County**

Neville vicinity, *Maynard House*, 2 mi. E of Neville off U.S. 52.

Crawford County

Calvary Reformed Church, *First United Methodist Church*, *Crestline Shunk Museum*.

Darke County

DAR-S.R.-571-0.00.

Montgomery County

Columbia Bridge Works.
Lower Cratis Road Bridge.

Pickaway County

Williamsport vicinity, *The Shack (Daugherty, Harry, House)*, 5.5 mi. NW of Williamsport.

Seneca County

Tiffin, *Old U.S. Post Office*, 215 S. Washington St.

Warren County

Corwin, *Shaffer Mound*, S of New Burlington Rd.

Harveysburg, *E. L. Anderlee Mound*, S of New Burlington Rd. in Caesar Creek Lake Project.

OKLAHOMA**Atoka County**

Estep Shelter, Lower Clear Boggy Watershed.
Graham Site, Lower Clear Boggy Watershed.

Comanche County

Fort Sill, *Blockhouse on Signal Mountain* off Mackenzie Hill Rd.

Fort Sill, *Camp Comanche Site*, E range on Cache Creek.

Fort Sill, *Chiefs Knoll*, Post Cemetery, N of Haskell County

Keota vicinity, *Otter Creek Archeological Site*, SW of Keota.

Kay County

Newkirk vicinity, *Bryson Archeological Site*, NE of Newkirk.

OREGON**Baker County**

Baker vicinity, *Virtue Flat Mining District*, 10 mi. E of Baker off Hwy. 86.

Columbia County

Scappoose vicinity, *Portland and Southwestern Railroad Tunnel*, 13 mi. NW of Scappoose.

Coos County

Charleston, *Cape Arago Light Station*, Curry County

Port Orford, *Cape Blanco Light Station*.

Douglas County

Winchester Bay, *Umpqua River Lighthouse*.

Gilliam County

Arlington vicinity, *Four Mile Canyon Area (Oregon Trail)*, 10 mi. SE of Arlington.

Crum Gristmill, *Ghost Camp Reservoir area*.

Old Wagon Road, *Ghost Camp Reservoir area*.

Olez School, *Ghost Camp Reservoir area*.
Steel Truss Bridge, *Ghost Camp Reservoir area*.

Klamath County

Crater Lake National Park, Crater Lake Lodge.

Lane County

Roosevelt Beach, Heceta Head Lighthouse.
Roosevelt Beach, Heceta Head Light Station.

Lincoln County

Agate Beach, Yakuina Head Lighthouse.

Tillamook County

Tillamook, Cape Meares Lighthouse.

Wasco County

Memaloose Island, River Mile 177.5 in Columbia River.

Wheeler County

Antone, Antone Mining Town, Barite 1901-1906.

PENNSYLVANIA**Adams County**

Gettysburg, Barlow's Knoll, adjacent to Gettysburg National Military Park.

Allegheny County

Bruceton, Experimental Mine, U.S. Bureau of Mines, off Cochran Mill Rd.

Berks County

Mt. Pleasant, Berger-Stout Log House, near jct. of Church Rd. and Tulephocken Creek.
Mt. Pleasant, Conrad's Warehouse, near jct. of Rte. 183 and Powder Mill Rd.

Mt. Pleasant, Heck-Stamm-Unger Farmstead, Gruber Rd.

Mt. Pleasant, Miller's House, jct. of Rte. 183 and Powder Mill Rd.

Mt. Pleasant, O'Bolds-Billman Hotel and Store, Gruber Rd. and Rte. 183.

Mt. Pleasant, Pleasant Valley Roller Mill, Gruber Rd.

Mt. Pleasant, Reber's Residence and Barn, on Tulephocken Creek.

Mt. Pleasant, Union Canal, Blue Marsh Lake Project area.

Chester County

Charlestown, Nesspor House (Thomas Davis House), State Rd.

Charlestown, Pickering Creek Ice Dam, State Rd.

Lock Aerie, Nature Center of Charleston, State Rd. Charleston township.

Clinton County

Lockhaven, Apsley House, 302 E. Church St.

Lockhaven, Harvey Judge, House, 29 N. Jay St.

Lockhaven, McCormick, Robert, House, 234 E. Church St.

Lockhaven, Mussina, Lyons, House, 23 N. Jay St.

Delaware County

I 476 Historic Sites (20 Historic Sites) Mid-County Expwy. (also in Montgomery County.)

Huntingdon County

Brumbaugh Homestead, Raystown Lake Project.

Lackawanna County

Carbondale, Miners and Mechanics Bank Bldg 13N., Main St.

Lancaster County

Bainbridge Township, Haldeman Mansion.

Lehigh County

Colesville vicinity, Site 1: Farmhouse, barn, and outbuildings, I-78.

Dorneyville, King George Inn and two other stone houses, Hamilton and Cedar Crest Blvds.

Lycoming County

Williamsport, Faxon Co., Inc., Williamsport Beltway.

Northampton County**Lehigh Canal**

Site 3: Farmhouse, barn, and outbuildings, I-78.

Site 4: Farmhouse, barn, and outbuildings, I-78.

Philadelphia County

Philadelphia, Bridge on "I" Street, over Tacony Creek.

Philadelphia, Poth, Frederick, House, 216 N. 33rd St.

Philadelphia, Tremont Mills, Wingonocking St. and Adams Ave.

U.S. Naval Base, Quarters "A" Commandant's Quarters

Washington County

Charleroi, Ninth Street School.

Cross Creek Village, Cross Creek watershed.

Somerset Township, Wright No. 22 Covered Bridge.

RHODE ISLAND**Providence County**

Woonsocket, Club Marquette Building (St. Anne's Gymnasium, Cumberland St.

SOUTH CAROLINA**Beaufort County**

Parris Island, Marine Corps Recruit Depot.

Charleston County

Charleston, 139 Ashley St.

Charleston, 69 Barre St.

Charleston, 69r Barre St.

Charleston, 316 Calhoun St.

Charleston, 316r Calhoun St.

Charleston, 268 Calhoun St.

Charleston, 274 Calhoun St.

Charleston, Old Rice Mill, off Lockwood Dr.

SOUTH DAKOTA**Pennington County**

Rapid City, Rapid City Historic Commercial District, portions of 612-632 Main St.

TENNESSEE**Davidson County**

Nashville, Ancient Indian Village and Burial Ground, section 203(b).

Trousdale County

Dixon Springs, McGee House.

TEXAS**Bezar County**

Fort Sam Houston, Eisenhower House, Artillery Post Rd.

Concho County

Middle Colorado River Watershed, Prehistoric Archeology in the Southwest Laterals Subwatershed (also in McCulloch County).

Denton County

Hammons, George, House, between Sangers and Pilot Point.

El Paso County

Castner Range Archeological Sites.

Galveston County

Galveston, U.S. Customhouse, bounded by Avenue B, 17th, Water, and 18th Sts.

Hardeman County

Quanah, Quanah Railroad Station, Lots 2, 3, and 4 in Block 2.

Uvalde County

Leona River Watershed Archeological Sites.

Webb County

Laredo, Bertani, Paul Prevost House, 604 Iturbide St.

Laredo, De Leal, Viscaya, House, 620 Zaragoza St.

Laredo, Garza, Zola De La, House, 500 Iturbide St.

Laredo, Leyendecker/Salinás House, 702 Iturbide St.

Laredo, Montemayor, Jose A., House (Carols Vela House), 601 Zaragoza St.

UTAH**Emery County**

Site ML-2145, Manti-LaSal National Forest.

Salt Lake County

Salt Lake City, Lollin Block, 238-240 S. Main St.

VERMONT**Windsor County**

Windsor, Post Office Building.

VIRGINIA**Wythe County**

Fort Criswell

WASHINGTON**Benton County**

Richland vicinity, Paris Archeological Site, Hanford Works Reservation.

Richland vicinity, Wooded Island Archeological District, N of Richland.

Clallam County

Cape Alava vicinity, White Rock Village Archeological Site, S of Cape Alava.

Olympic National Park Archeological District, Olympic National Park (also in Jefferson County).

Segium, New Dungeness Light Station.

Grays Harbor County

West Port, Grays Harbor Light Station.

King County

Burton, Point Robinson Light Station.

Seattle, Alki Point Light Station.

Seattle, Home of the Good Shepherd.

Seattle, West Point Light Station.

Kitsap County

Hansville, Point No Point Light Station.

Pacific County

Iiwaco, North Head Light Station.

Pierce County

Fort Lewis Military Reservation, Captain Wilkes, July 4, 1841, Celebration Site.

Longmire, Longmire Cabin, Mount Rainier National Park.

San Juan County

San Juan Islands, Patos Island Light Station-Skamania County

North Bonneville, Site 44SA11, Bonneville Dam Second Powerhouse Project.

Snohomish County

Mukilteo, Mukilteo Light Station.

WEST VIRGINIA**Barbour County**

Covered Bridge across Rooting Creek, Elk Creek Watershed (also in Harrison County).

Cabell County

Huntington, Old Bank Building, 1208 3rd Ave.

Kanawha County

Charleston, *Kanawha County Courthouse*.
St. Albans, *Chilton House*, 439 B St.

Wood County

Parkersburg, *Wood County Courthouse*.
Parkersburg, *Wood County Jail*.

WISCONSIN**Ashland County**

Ashland vicinity, *Madeline Island Site* 7302.

Fond du Lac County

Fond du Lac, *Aetna Station No. 5*, 193 N
Main St.

LaCrosse County

LaCrosse, *LaCrosse Post Office*.

WYOMING**Fremont County**

Pilot Butte Powerplant, *Wind River Basin*.

Natrona County

Casper, *Cantonment Reno*.
Casper, *Castle Rock Archeological Site*.
Casper, *Dull Knife Battlefield*.
Casper, *Middle Fork Pictograph-Petroglyph
Panels*.
Casper, *Portuguese Houses*.

Park County

Mammoth, *Chapel at Fort Yellowstone*.
Yellowstone National Park.

PUERTO RICO

Mona Island, *Sardinero Site and Ball Courts*.

[FR Doc. 76-31689 Filed 11-1-76; 8:45 am]

NATIONAL REGISTER OF HISTORIC PLACES**Notification of Pending Nominations**

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before October 22, 1976. Pursuant to section 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by November 12, 1976.

JERRY L. ROGERS,
Acting Chief, Office of Archeology and Historic Preservation.

ARIZONA**Maricopa County**

Theba vicinity, *Painted Rocks*, W of Theba.

ARKANSAS**Boone County**

Harrison, *Boone County Jail*, Central Ave.
and Willow St.

Bradley County

Warren, *Bradley County Courthouse and
County Clerk's Office*, Courthouse Sq.

Calhoun County

Hampton, *Calhoun County Courthouse*,
Courthouse Sq.

Cleveland County

Rison, *Cleveland County Courthouse*, Main
and Magnolia Sts.

Conway County

Atkins vicinity, *Trinity Lutheran Church*,
7.2 mi. S of Atkins at Petit Jean Mountain
off AR 154.

Craighead County

Bay vicinity, *Bay Mounds*, N of Bay.

Drew County

Monticello, *Hotchkiss House*, 509 N. Boyd St.

Franklin County

Ozark vicinity, *Cabins, The (Deane Summer
House)*, 3 mi. SW of Ozark at Manitou
Mountain.

Jackson County

Jacksonport vicinity, *Robinson-Williams-
Harper House*, N of Jacksonport on SR 1.

Jefferson County

Pine Bluff, *MacMillan-Wilkins-Dilley-Irwin
House*, 407 Martin Ave.
Pine Bluff, *Roth-Rosenzweig-Lambert House*,
717 W. 2nd Ave.

Miller County

Texarkana, *Dean-Daniel House*, 1520 Beech
St.

Monroe County

Brinkley, *Black, Maj. William, House*, 311 W.
Ash St.
Clarendon, *Old Monroe County Jail*, 2nd and
Kendall Sts.

Ouachita County

Camden, *Old Camden Post Office*, 133 Wash-
ington St., SW.

Pulaski County

Little Rock, *Bruner-Hammond House*, 1415
Cantrell St.
Little Rock, *Halliburton Townhouse*, 1601
and 1605 Center St.

Sharp County

Evening Shade, *Evening Shade Historic Dis-
trict*, properties N of Town Branch River
on Old Hwy 11, Main and N High Sts., and
Sidney County Rd.

Saline County

Benton, *Saline County Courthouse*, Court-
house Sq.
Bryant vicinity, *Hunter, Andrew, House*,
NW of Bryant on AR 5.

Washington County

Fayetteville vicinity, *Combs, Nathan, House*,
SW of Fayetteville.
Johnson, *Johnson House and Mill*, Johnson
Rd.
Prairie Grove vicinity, *Borden House*, NE
of Prairie Grove on U.S. 62.

CALIFORNIA**Alameda County**

Berkeley, *Drawing Building*, University of
California campus.

Amador County

Ione, *Ione City Centenary Church (Cath-
edral of the Mother Lode)*, 150 Marlette St.

Los Angeles County

Los Angeles, *Mount Pleasant Museum House*,
3800 Homer St., Heritage Sq.

Sacramento County

Sacramento, *Heilbron House*, 704 O St.

COLORADO**Moffat County**

White Indian Contact Site, *Brown's Park*.

INDIANA**Fayette County**

Connersville vicinity, *Elmhurst*, outside Con-
nersville (S) on Grand Ave. (IN 121).

Marion County

Bloomington, *Wylie, Andrew, House*, 307
E. 2nd St.
Indianapolis, *Bates-Hendricks House*, 1526
S. New Jersey St.

LOUISIANA**Ascension Parish**

Donaldsonville vicinity, *Palo Alto Plantation*,
W of Donaldsonville on LA 1.

St. Landry Parish

Washington vicinity, *Moundville Plantation
House (Wartelle House)*, 2.5 mi. NW of
Washington off LA 103.

MARYLAND**Baltimore County**

Shawhan vicinity, *Worthington Valley Historic
District*, area roughly between Emory (E)
and Shawhan (W), and between Coopers-
ville (N) and Worthington (S).

Carroll County

Taneytown vicinity, *Antrim*, S of Taneytown
off Uniontown Rd.

MINNESOTA**Anoka County**

Fridley, *Locke, Cassius M., House (Old Locke
House)*, 6666 E. River Rd.

Faribault County

Blue Earth, *Faribault County Courthouse*, N.
Main and 2nd Sts.

Hennepin County

Minneapolis, *Frederick, Fred, House (Cupola
House)*, 2402 4th Ave., South.
Minneapolis, *Lohmar, John, House*, 1514 Du-
pont Ave., North.

Martin County

Fairmont, *Martin County Courthouse*, Lake
Ave. at 2nd St.

Ramsey County

White Bear Lake, *Noyes, C. P. Cottage, (The
Red Chalet)*, 303 Lake Ave.

St. Louis County

Duluth, *Munger Terrace*, 405 Mesabi Ave.

Winoa County

Winoa, *Huff-Lumberton House*, 207 Huff St.

Wright County

Cokato, *Akerland's, Gust, Photographic
Studio*, 390 Broadway.
Cokato vicinity, *Cokato Temperance Hall*, 3
mi. N of Cokato at jct. of SR 3 and SR 100.
Monticello, *Mealey, Tobias G., House*, Ter-
ritorial Rd.

MISSISSIPPI**Adams County**

Natchez, *Briars, The, The Briars Rd.*

Harrison County

Biloxi, *Pradat/Toledano/Philbrick/Tullis
House*, 947 E. Beach Blvd.

Lowndes County

Columbus, *Riverside*, 514 2nd St. South.

Washington County

Greenville, *First National Bank of Greenville*, NE corner of Main and Walnut Sts.

NEBRASKA**Saline County**

Crete vicinity, *Bickle, Jesse C., House*, outside of Crete on S of Big Blue River.

Sioux County

Agate vicinity, *Cook, Harold J., Homestead Cabin*, in Agate Fossil Beds National Monument off NE 29.

NEW JERSEY**Monmouth County**

Wall, *Marconi Building/Hotel at Belmar Station*, on Marconi Rd. at Camp Evans.

NEW YORK**Ogdensburg County**

Ogdensburg, *New York State Armory (The Arsenal)*, 100 Lafayette St.

Oneida County

Oneida, *Tower Homestead and Reuben Tower II Residence (Harding Residence and Masonic Temple)*, 210 Tower St. and Sanger St.

OHIO**Miami County**

Troy vicinity, *Iddings, Benjamin, Log House*, 6.5 mi. W of Troy at Brukner Nature Center.

TEXAS**Val Verde County**

Del Rio, *Val Verde County Courthouse and Jail*, 400 block of Pecan St. (Public Sq.).

Washington County

Brenham, *Giddings-Wilkin House*, 805 Crockett St.

[FR Doc.76-31690 Filed 11-1-76;8:45 am]

PROPOSED DRAFT MASTER PLAN ACADIA NATIONAL PARK, MAINE**Extension of Time for Review and Comment on Revised Draft Environmental Statement**

Notice is hereby given that the National Park Service has extended the time period for review and comment on the Revised Draft Environmental Statement through January 31, 1977. This notice is relevant to a notice published in the FEDERAL REGISTER, Vol. 41, No. 120—Monday, June 21, 1976 (41 FR 24926) which was the initial notice of availability of this Revised Draft Environmental Statement.

The Revised Draft Environmental Statement is on file and available for review and inspection at the North Atlantic Regional Office, 150 Causeway Street, Boston, Massachusetts 02114, the Superintendent's office, Acadia National Park, Hulls Cove, Maine 04644, and the Mid-Atlantic Regional Office, 143 S. Third Street, Philadelphia, Pennsylvania 19106. Written comments on this document are invited and will be accepted on or before January 31, 1977. Comments should be addressed to: Superintendent,

Acadia National Park, Hulls Cove, Maine 04644.

Dated: October 28, 1976.

STANLEY D. DOREMUS,
Deputy Assistant
Secretary of the Interior.

[FR Doc.76-32252 Filed 11-1-76;8:45 am]

Office of Hearings and Appeals

[Docket No. M 76-500]

PAD FORK COAL CO.**Petition for Modification of Application of Mandatory Safety Standard**

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Pad Fork Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its No. 1 Underground Mine located in McDowell County, West Virginia.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

(1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;

(2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;

(3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;

(4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;

(5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches,

(ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches, and

(6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner feels that installing cabs and canopies on the electric equipment

in this mine would create a safety hazard to the equipment operators.

2. Petitioner's electrical equipment consists of one Jeffrey 101 Heliminer, two Kersey 944 D battery-powered tractors, one 16SK Kersey scoop, battery-powered, and a Galis roof bolter, 300 series.

3. The No. 1 Underground Mine coal seam ranges from 28 to 34 inches in height. It has extensive rolls and undulations which cause the equipment to become jammed between the roof and floor. The addition of cabs and canopies will further limit the maneuverability of the equipment and also limit the visibility and movement of the operators.

4. Petitioner feels that since the equipment operators' vision is limited and since their position in the decks is cramped with the canopies installed, this could be a contributing factor in any accidents which might occur.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before December 2, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

FRANCIS A. PATTON,
Acting Director, Office of
Hearings and Appeals.

OCTOBER 22, 1976.

[FR Doc.76-32071 Filed 11-1-76;8:45 am]

[Docket No. M 76-496]

RITA COAL CO.**Petition for Modification of Application of Mandatory Safety Standard**

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. 861(c) (1970), Rita Coal Company has filed a petition to modify the application of 30 CFR 75.1710 to its LD-2A Mine located in Pike County, Kentucky.

30 CFR 75.1710 provides:

An authorized representative of the Secretary may require in any coal mine where the height of the coalbed permits that electric face equipment, including shuttle cars, be provided with substantially constructed canopies, or cabs, to protect the miners operating such equipment from roof falls and from rib and face rolls.

To be read in conjunction with § 75.1710 is 30 CFR 75.1710-1 which in pertinent part provides:

* * * Except as provided in paragraph (f) of this section, all self-propelled electric face equipment, including shuttle cars, which is employed in the active workings of each underground coal mine on and after January 1, 1973, shall, in accordance with the schedule of time specified in subparagraphs (1), (2), (3), (4), (5), and (6) of this paragraph (a), be equipped with substantially constructed

canopies or cabs, located and installed in such a manner that when the operator is at the operating controls of such equipment he shall be protected from falls of roof, face, or rib, or from rib and face rolls. The requirements of this paragraph (a) shall be met as follows:

- (1) On and after January 1, 1974, in coal mines having mining heights of 72 inches or more;
- (2) On and after July 1, 1974, in coal mines having mining heights of 60 inches or more, but less than 72 inches;
- (3) On and after January 1, 1975, in coal mines having mining heights of 48 inches or more, but less than 60 inches;
- (4) On and after July 1, 1975, in coal mines having mining heights of 36 inches or more, but less than 48 inches;
- (5) (i) On and after January 1, 1976, in coal mines having mining heights of 30 inches or more, but less than 36 inches;
- (ii) On and after July 1, 1977, in coal mines having mining heights of 24 inches or more, but less than 30 inches; and
- (6) On and after July 1, 1978, in coal mines having mining heights of less than 24 inches. * * *

The substance of Petitioner's statement is as follows:

1. Petitioner feels that installing cabs and canopies on the electrical equipment in this mine would create a safety hazard to the equipment operators.
2. Petitioner's electrical equipment consists of one 265 Lee-Norse miner, one Acme roof bolter, and two CX-1 scoops.
3. The LD-2A Mine is in a coal seam which ranges from 38 to 42 inches in height and has an irregular bottom. Installation of canopies has blocked visibility and reduced maneuverability, creating a hazard to the operators as well as to the other employees in the mine.
4. Petitioner feels that since the equipment operators' vision is limited and his maneuverability reduced, the canopy has presented a safety hazard.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before December 2, 1976. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Virginia 22203. Copies of the petition are available for inspection at that address.

FRANCES A. PATTON,
Acting Director, Office of
Hearings and Appeals.

OCTOBER 22, 1976.

[FR Doc.76-32072 Filed 11-1-76;8:45 am]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

DEXTER BROOKS, ET AL.

Public Hearing Regarding Application for Tobacco Inspection and Price Support Services

Notice is hereby given of a public hearing to be held in the Junior Chamber of Commerce Clubhouse Building, Route 2, Pembroke, North Carolina 28372, beginning at 10:00 a.m., e.s.t., on November 4, 1976, upon the application of Dexter Brooks, et al., T/A First American Co-

operative, Pembroke, North Carolina, for tobacco inspection and price support services. Such public hearing will be conducted and evidence received pursuant to the concurrent and identical policy statements and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (37 FR 7765, April 12, 1972).

Done at Washington, D.C., October 27, 1976.

RICHARD L. FELTNER,
Assistant Secretary.

[FR Doc.76-31908 Filed 11-1-76;8:45 am]

Agricultural Stabilization and Conservation Service

DEXTER BROOKS, ET AL.

Public Hearing Regarding Application for Tobacco Inspection and Price Support Services

CROSS REFERENCE: For a document regarding public hearing on the above-mentioned subject, see FR Doc. 76-31908, appearing in the Notices Section of this issue.

Rural Electrification Administration

BASIN ELECTRIC POWER COOPERATIVE Final Environmental Impact Statement

Notice is hereby given that the Rural Electrification Administration has prepared a Final Environmental Impact Statement in accordance with section 102(2)(C) of the National Environmental Policy Act of 1969, in connection with a request for a loan guarantee commitment from the Rural Electrification Administration for Basin Electric Power Cooperative of Bismarck, North Dakota. This loan guarantee commitment will assist in obtaining financing for the purchase of two 60 MW combustion turbines to be installed near Vermillion, South Dakota.

Additional information may be secured on request, submitted to Mr. Richard F. Richter, Assistant Administrator—Electric, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250. The Final Environmental Impact Statement may be examined during regular business hours at the offices of REA in the South Agriculture Building, 12th Street and Independence Avenue, S.W., Washington, D.C., Room 4310, or at the borrower address indicated above.

Final REA action with respect to this matter (including any release of funds) may be taken after thirty (30) days, but only after REA has reached satisfactory conclusions with respect to its environmental effects and after procedural requirements set forth in the National Environmental Policy Act of 1969 have been met.

Dated at Washington, D.C., this 27th day of October, 1976.

DAVID H. ASKEGAARD,
Acting Administrator, Rural
Electrification Administration.

[FR Doc.76-32027 Filed 11-1-76;8:45 am]

DEPARTMENT OF COMMERCE

Bureau of the Census

SURVEY OF DISTRIBUTORS' STOCKS OF CANNED FOODS

Determination

In conformity with title 13, United States Code, sections 181, 224, and 225, and due Notice of Consideration having been published September 29, 1976 (41 FR 42968), I have determined that year-end data on stocks of 30 canned and bottled products, including vegetables, fruits, juices, and fish, are needed to aid the efficient performance of essential government functions, that the data have significant application to the needs of the public and industry, and that they are not publicly available from the non-governmental or other governmental sources. This is a continuation of the survey conducted in previous years.

All respondents will be required to submit information covering their December 31, 1976 inventories of 30 canned and bottled vegetables, fruits, juices, and fish. Reports will not be required from all firms, but will be limited to a scientifically selected sample of wholesalers and retail multiunit organizations handling canned foods in order to provide, with measurable reliability, year-end inventories of the specified canned food items. These stocks will be measured in terms of actual cases, with separate data requested for "all sizes smaller than No. 10" and for "sizes No. 10 or larger." (In addition, multiunit firms reporting separately by establishment will be requested to update the list of their establishments maintaining canned food stocks.)

Report forms will be furnished to firms covered by the survey. Copies of the forms are available on request to the Acting Director, Bureau of the Census, Washington, D.C. 20233.

I have, therefore, directed that this annual survey be conducted for the purpose of collecting data.

Dated: October 28, 1976.

ROBERT L. HAGAN,
Acting Director,
Bureau of the Census.

[FR Doc.76-32067 Filed 11-1-76;8:45 am]

National Oceanic and Atmospheric Administration

FOUKE CO.

Receipt of Application To Import

Notice is hereby given that the Director, National Marine Fisheries Service has received an application from the Fouke Company, Greenville, South Carolina, for a permit to import 13,000 Cape fur sealskins for the purpose of processing the skins in accordance with usual business practice. The application is pursuant to regulations promulgated under the Marine Mammal Protection Act of 1972 (41 FR 7510-7512, and 7537-7540 February 19, 1976).

The Fouke Company proposes to import 13,000 Cape fur sealskins taken in South Africa during a period commencing August 2, 1976, through approxi-

mately October 20, 1976. The application includes a certification by the Director of Sea Fisheries, Cape Town, South Africa that the seals were taken humanely; the annual harvest did not exceed 70,000 skins; the seals were taken on or after August 1 and were not of black pelage; the seals were not taken in violation of the laws of South Africa, and were not taken from within the territory of South West Africa.

A copy of the application is on file and may be reviewed in the Office of the National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Room 426, Washington, D.C. 20007.

Interested parties may submit written data or views, or requests for a public hearing on this application to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before December 2, 1976. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this notice in support of this application are those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: October 28, 1976.

ROBERT J. AYERS,
Acting Assistant Director for
Fisheries Management, National
Marine Fisheries Service.

[FR Doc.76-32008 Filed 11-1-76;8:45 am]

Office of the Secretary PRIVACY ACT OF 1974

Adoption of Consolidated System of Records and New Routine Use

On August 20, 1976, the Department of Commerce gave notice (41 FR 35205-06) that it proposed to consolidate two previously noticed Systems of Records into one System and to add a new routine use to that System. The consolidated System of Records, including the routine use, is entitled COMMERCE/NTIS-1, Individuals Interested in NTIS Publications, Shipped Order Addresses, Customer Account Records, and Subscribers File. Interested persons were invited to submit written data, views, or arguments on or before September 20, 1976.

No comments were received in response to the notice.

Therefore, the Department hereby adopts the consolidated System of Records entitled COMMERCE/NTIS-1, Individuals Interested in NTIS Publications, Shipped Order Addresses, Customer Account Records, and Subscribers File.

Inasmuch as the text of the new routine use and the consolidated System

of Records was published in its entirety as described above, and they are adopted without change, there is no need to republish at this time.

Dated: October 22, 1976.

JOSEPH E. KASPUTYS,
Assistant
Secretary for Administration.

[FR Doc.76-31951 Filed 11-1-76;8:45 am]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

RAPE PREVENTION AND CONTROL ADVISORY COMMITTEE

Meeting

RAPE PREVENTION AND CONTROL ADVISORY COMMITTEE

NOVEMBER 29-30; 9:30 A.M., OPEN MEETING

Conference Room G, Parklawn Building, Rockville, Maryland. Contact Ms. Betty Kutzke, Room 8C-23, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, 301-443-1910.

Purpose: The Rape Prevention and Control Advisory Committee advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problems of rape.

Agenda: This meeting will be open to the public. The two-day meeting will include discussion of the current administrative, legislative, and program developments in the area of rape prevention and control, and the role of the Advisory Committee in fulfilling its responsibilities.

Attendance by the public will be limited to space available.

Substantive information may be obtained from the contact person listed above. The NIMH Information Officer who will furnish summaries of the meeting and a roster of Committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Room 15-105, Parklawn Building, 5600 Fishers Lane, Rockville, Maryland 20852, 301-443-3600.

Dated: October 27, 1976.

CAROLYN T. EVANS,
Committee Management Officer,
Alcohol, Drug Abuse,
and Mental Health Administration.

[FR Doc.76-32022 Filed 11-1-76;8:45 am]

Food and Drug Administration

[Docket No. 76D-0394]

DRUG STABILITY

Availability of Guidelines

The Food and Drug Administration (FDA) announces the availability of drug stability guidelines developed by the Bureau of Veterinary Medicine. The guidelines are to be used as an aid in designing and conducting studies to establish drug stability in support of original or supplemental new animal drug applications (NADA's). The guidelines apply to dosage from drugs and those for use in medicated feed products.

Section 512(b) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b (b)) establishes the requirements for new animal drug approval. Pursuant to this section, § 514.1 Applications (21 CFR 514.1) specifies the proper form and the information required to be submitted. Included is a requirement under § 514.1 (b)(5)(x) that an applicant for a new animal drug must submit data from stability studies that have been completed, as well as information about studies that are underway or being planned.

The guidelines will provide a framework within which stability studies providing meaningful and sufficient data for new drug approval may be performed. The guidelines are not, however, intended to restrict experimentation.

Requests for single copies of the guidelines should be addressed to the Food and Drug Administration, Bureau of Veterinary Medicine, Scientific Evaluation, Attention: Chief Chemist, HFV-104, 5600 Fishers Lane, Rockville, MD 20852. A copy of the stability guidelines is on file in the office of the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852.

Any interested person may submit written comments on the guidelines. Such comments will be considered in determining whether further amendments to the guidelines are warranted. Two copies of any comments are to be sent to the Hearing Clerk, Food and Drug Administration for inclusion in the public file; and an additional two copies are to be sent to the Chief Chemist, HFV-104 (address above), the office responsible for maintaining the guidelines.

Dated: October 22, 1976.

JOSEPH P. HILE,
Acting Associate Commissioner
for Compliance.

[FR Doc.76-31827 Filed 11-1-76;8:45 am]

[Docket No. 76N-0290; DESI 8447]

CERTAIN ANTINEOPLASTIC RADIOACTIVE AGENTS

Drugs for Human Use; Drug Efficacy Study
Implementation; Followup Notice and
Opportunity for Hearing

Correction

In FR Doc. 76-27563, appearing at page 41131 in the issue of Tuesday, Septem-

ber 21, 1976, in the third column on page 41131 in paragraph "3. Marketing status." the next to the last line in that paragraph now reading "application form FD 365H * * *" should read "application form FD 356H * * *"

Note.—This document was previously published on Thursday, October 21, 1976 and is being reprinted here according to the day-of-the-week publication schedule.

[Docket No. 76N-0306; DESI 6695]

MECHLORETHAMINE HYDROCHLORIDE POWDER FOR INJECTION

**Drugs for Human Use; Drug Efficacy Study
Implementation; Followup Notice and
Opportunity for Hearing**

Correction

In FR Doc. 76-27242, appearing at page 40211 in the issue of Friday, September 17, 1976, in the third column on page 40212, the following changes should be made:

1. In the first paragraph, lines 12 and 17, "210(p)" should be changed to read "201(p)"; and,
2. In the fourth paragraph in the fifth line, the CFR citation should be changed to "21 CFR 314.200".

National Institutes of Health

BOARD OF SCIENTIFIC COUNSELORS, NATIONAL EYE INSTITUTE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Board of Scientific Counselors of the National Eye Institute on December 10, 11, 1976, in Room 6A-23, Building 31. The meeting will be open to the public from 8:30 a.m. to 5:00 p.m. on December 10 for general remarks by the Institute Director on matters concerning the intramural programs of the National Eye Institute and presentations by the Biochemistry Section of the Laboratory of Vision Research. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in section 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public from 8:30 a.m. until adjournment on December 11 for review, discussion and evaluation of individual projects conducted by the Section on Biochemistry of the Laboratory of Vision Research. This evaluation will include consideration of personnel qualifications and performance, the competence of individual investigators, medical files of individual research subjects, and similar items, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Mr. Julian Morris, Head, Office of Program Planning and Scientific Reporting, National Eye Institute, Building 31, Room 6A-27, telephone (301-496-5248) will furnish summaries of the meeting and rosters of committee members. Substantive program information may also

be obtained from Dr. Carl Kupfer, Director, National Eye Institute, Building 31, Room 6A-03, telephone (301) 496-2234, National Institutes of Health, Bethesda, Maryland 20014.

Dated: October 27, 1976.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 76-32056 Filed 11-1-76; 8:45 am]

CANCER RESEARCH MANPOWER REVIEW COMMITTEE

Establishment

The Director, National Institutes of Health, announces the establishment on October 13, 1976, of the advisory committee indicated below by the Director, National Cancer Institute, under the authority of section 410A(a) of the Public Health Service Act (42 U.S.C. 286e). Such advisory committees shall be governed by the provisions of the Federal Advisory Committee Act (Pub. L. 92-463) setting forth standards governing the establishment and use of advisory committees.

Name. Cancer Research Manpower Review Committee

Purpose. The Committee provides to the Director, NCI, and the Director, Division of Cancer Research Resources and Centers, advice concerning merit review of research manpower grant applications. This Committee will terminate October 13, 1978, unless renewed by appropriate action as authorized by law.

Dated: October 26, 1976.

DEWITT STETTEN, JR.,
Acting Director,
National Institutes of Health.

[FR Doc. 76-32053 Filed 11-1-76; 8:45 am]

COMMITTEE ADVISORY TO NATIONAL CANCER INSTITUTE

Open Meetings

Pursuant to Pub. L. 92-463, notice is hereby given of the meetings of committees advisory to the National Cancer Institute.

These meetings will be entirely open to the public to discuss issues relating to committee business as indicated in the notice. Attendance by the public will be limited to space available. Meetings will be held at the National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014, unless otherwise stated.

Mrs. Marjorie F. Early, Committee Management Officer, NCI, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will furnish summaries of the meetings and rosters of committee members upon request.

Other information pertaining to the meeting can be obtained from the Executive Secretary indicated.

Name of Committee: President's Cancer Panel.

Dates: December 7, 1976; 9:30 a.m.—adjournment.

Place: Building 31C, Conference Room 7, National Institutes of Health.

Times: Open for the entire meeting.

Agenda: To hear reports from the Director, National Cancer Program, NCI; the Chairman, President's Cancer Panel, and to review the budget.

Executive Secretary: Dr. Richard A. Tjalma.
Address: Building 31, Room 11A46, National Institutes of Health.

Phone: 301-496-5854.

Name of Committee: Diet, Nutrition and Cancer Program Advisory Committee.

Dates: December 14-15, 1976; 9:00 a.m.—adjournment.

Place: Building 31C, Conference Room 10, National Institutes of Health.

Times: Open for the entire meeting.

Agenda: To review developments in the diet, nutrition and cancer program.

Executive Secretary: Dr. Gle B. Gori.

Address: Building 31, Room 11A03, National Institutes of Health.

Phone: 301-496-6616.

Dated: October 27, 1976.

SUZANNE L. FREMEAUX,
Committee Management Officer,
National Institutes of Health.

[FR Doc. 76-32052 Filed 11-1-76; 8:45 am]

INFECTIOUS DISEASE COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Infectious Disease Committee, National Institute of Allergy and Infectious Diseases on December 2, 3, and 4, 1976, at the National Institutes of Health, Building 31C, Conference Room 7, Bethesda, Maryland. This meeting will be open to the public from 8:30 a.m. to 9:30 a.m. on December 2 for the discussion of general policy matters and administrative reports. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting of the committee will be closed to the public from 9:30 a.m. on December 2 to adjournment on December 4 for the review, discussion and evaluation of individual initial pending and renewal research grant applications, and individual initial pending National Research Service Award applications. The closed portions of the meeting involve solely the internal expression of views and judgments of committee members on such applications which contain detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mr. Robert L. Schreiber, Chief, Office of Research Reporting and Public Response, NIAD, National Institutes of Health, Building 31, Room 7A32, Bethesda, Maryland 20014, (301) 496-5717, will furnish rosters of committee members, summaries of the meetings, and other information pertaining to the meetings.

(Catalog of Federal Domestic Assistance Program No. 13.856, National Institutes of Health.)

Dated: October 27, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-32054 Filed 11-1-76;8:45 am]

MENTAL RETARDATION RESEARCH COMMITTEE

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Mental Retardation Research Committee, National Institute of Child Health and Human Development, on December 9-11, 1976, in the Landow Building, Room C-418, 7910 Woodmont Avenue, Bethesda, Maryland.

The meeting will be open to the public on December 9 from 8:30 p.m. to 10:30 p.m. to discuss items relative to the Committee's activities including announcements by the Chief of the Mental Retardation and Developmental Disabilities Branch and the Executive Secretary of the Committee. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sections 552(b)(4), 552(b)(5), and 552(b)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on December 10 from 8:30 a.m. to adjournment on December 11 for the review, discussion and evaluation of individual initial pending and renewal grant applications. The closed portion of the meeting will involve solely the internal expression of views and judgments of the committee members on individual grant applications containing detailed research protocols, designs, and other technical information; financial data, such as salaries; and personal information concerning individuals associated with the applications.

Mrs. Marjorie Neff, Committee Management Officer, NICHD, Building 31, Room 2A-04, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1848, will provide a summary of the meeting and a roster of committee members. Dr. Lyle Lloyd, Executive Secretary, Mental Retardation Research Committee, NICHD, Landow Building, Room C-704, National Institutes of Health, Bethesda, Maryland, Area Code 301, 496-1383, will furnish substantive program information.

Dated: October 27, 1976.

(Catalog of Federal Domestic Assistance Program No. 13.865, National Institutes of Health.)

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-32055 Filed 11-1-76;8:45 am]

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

Program Announcement for Visiting Scientist Awards

The Health Research and Health Services Amendments of 1976 (Pub. L. 94-

278), Title XI, Sec. 1103 (42 U.S.C. 2891-5) provides for awards to outstanding scientists who agree to serve as visiting scientists at institutions which have significant enrollments of disadvantaged students. These Visiting Scientist Awards shall be made in order to enable the faculty and students of such institutions to draw upon the special talents of scientists from other institutions for the purpose of receiving guidance, advice, and instruction with regard to research, teaching, and curriculum development in biomedical and behavioral sciences.

Applications for the Visiting Scientist Awards or other information concerning these awards may be obtained from the Director, MARC Program, NIGMS, NIH, Room 9A18, Westwood Building, 5333 Westbard Avenue, Bethesda, Maryland 20014.

Dated: October 19, 1976.

(Catalog of Federal Domestic Assistance Program Number 13.880.)

DONALD S. FREDRICKSON,
Director,
National Institutes of Health.

[FR Doc.76-32050 Filed 11-1-76;8:45 am]

TEMPORARY REVIEW COMMITTEE FOR FREDERICK CANCER RESEARCH CENTER

Amended Notice of Meeting

Notice is hereby given of a change in the meeting place of the Temporary Review Committee for Frederick Cancer Research Center, National Cancer Institute, November 18, 1976, which was published in the FEDERAL REGISTER on October 18, 1976, (41 FR 45894).

This Temporary Review Committee for Frederick Cancer Research Center was to have convened at the Energy Research and Development Administration, Room A410, Germantown, Maryland, but has been changed to Conference Room 6, Building 31, "C" Wing, National Institutes of Health, Bethesda, Maryland.

The entire meeting will be open to the public from 9:00 a.m. to adjournment.

Dated: October 26, 1976.

SUZANNE L. FREMEAU,
Committee Management Officer,
National Institutes of Health.

[FR Doc.76-32051 Filed 11-1-76;8:45 am]

Office of Education

ADVISORY COUNCIL ON FINANCIAL AID TO STUDENTS

Meeting

Notice is hereby given, pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), that the next meeting of the Advisory Council on Financial Aid to Students will be held on December 6, 7 and 8, 1976, from 9 a.m. to 5 p.m. at the Hyatt Regency Hotel, Washington, D.C.

The Advisory Council on Financial Aid to Students is established under section 499(a) of the Higher Education Act of 1965, as amended (20 U.S.C. 1089). The Committee shall advise the Commis-

sioner on matters of general policy arising in the administration by the Commissioner of programs relating to financial assistance to students and on the evaluation of the effectiveness of these programs.

The meeting of the Committee shall be open to the public. The proposed agenda includes:

1. Discussion of work papers to be prepared by the Council members on selected topics related to student financial aid. These papers will serve as basis for deliberation during the following meetings of the Council, preparatory to publishing its Third Annual Report to the Commissioner and to Congress.

Records shall be kept of all Committee Proceedings and shall be available for public inspection at the Council's Office located in Room 4931, Regional Office Building No. 3, 7th and D Streets, S.W., Washington, D.C. 20202.

Signed in Washington, D.C. on October 20, 1976.

WARREN T. TROUTMAN,
OE Delegate.

[FR Doc.76-32023 Filed 11-1-76;8:45 am]

NATIONAL ADVISORY COUNCIL ON VOCATIONAL EDUCATION

Public Hearing and Meeting

Notice of Public Hearing and Meeting of the Task Force on Native American Vocational Education of the National Advisory Council on Vocational Education.

Notice is hereby given, pursuant to Pub. L. 92-463, that the Task Force on Native American Vocational Education of the National Advisory Council on Vocational Education will hold a hearing open to the public on November 22, 1976 from 9:00 a.m. to 5:00 p.m., local time at Howard Johnson Motor Lodge I-90 and LaCrosse, Rapid City, South Dakota, to receive the testimony of invited witnesses, regarding the effectiveness and status of Indian vocational education in the Mountain Plains area of the United States. This hearing is being held in preparation for developing recommendations regarding administration of the Education Amendments of 1976, Pub. L. 94-482, section 103(b)(3). A meeting of the Task Force will be held on November 23, 1976 from 8:30 a.m. to 12:00 Noon, local time, to review the procedures of conducting the hearing.

The National Advisory Council on Vocational Education is established under section 104 of the Vocational Education Amendments of 1968 (20 U.S.C. 1244). The Council is directed to advise the Commissioner of Education concerning the Administration of preparation of general regulations for, and operation of, vocational education programs, supported with assistance under the act; review the administration and operation of vocational education programs under the act, including the effectiveness of such programs in meeting the purposes for which they are established and operated, make recommendations with respect thereto, and make annual reports

of its findings and recommendations to the Secretary of HEW for transmittal to the Congress, and conduct independent evaluation of programs carried out under the act and publish and distribute the results thereof.

The meeting of the Council shall be open to the public.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the Council's Executive Director, located in Suite 412, 425-13th Street, N.W., Washington, D.C. 20004.

Signed at Washington, D.C. on October 29, 1976.

REGINALD PETTY,
Executive Director.

[FR Doc. 76-32142 Filed 11-1-76; 8:45 am]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N-76-653]

AUDIT GUIDE FOR USE BY HUD Approved Nonsupervised Mortgages

On June 30, 1976, the Department issued Handbook IG 4000.3 "Audit Guide for Audits of HUD Approved Nonsupervised Mortgages for Use by Independent Public Accountants". It has now been determined to postpone the effective date and seek public comments on the Guide. Comments from nonsupervised mortgagees and independent public accountants are particularly desired.

In no event will the Guide as revised after public comments be made effective for fiscal years ending on or before December 31, 1976. The Audit Guide as revised will include appropriate references to regulations as they may be amended in the interim and to any changes that may be made in the listing of acceptable and nonacceptable assets for the computation of net worth as reported in Appendix 1 to the Guide.

Interested persons may submit written comments or arguments concerning the Audit Guide to the Rule Docket Clerk, Room 10141, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C., 20410. Each person submitting a comment should include his name and address and refer to the Audit Guide by the docket number indicated in the heading above and give reasons for any recommendations. Comments received by December 3, 1976, will be considered before the Audit Guide is revised.

Issued at Washington, D.C., this 29th day of October, 1976.

JAMES B. THOMAS, Jr.,
Inspector General.

AUDIT GUIDE FOR AUDITS OF HUD APPROVED NONSUPERVISED MORTGAGEES FOR USE BY IN- DEPENDENT PUBLIC ACCOUNTANTS

June 1976

(A HUD Handbook)

OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT
OF HOUSING AND URBAN DEVELOPMENT, WASH-
INGTON, D.C. 20410

FOREWORD

The Office of Inspector General, Office of Audit, of the Department of Housing and Urban Development has developed this guide for the use of certified public accountants or public accountants licensed by a regulatory authority of a state or other political subdivision of the United States on or prior to December 31, 1970. This guide is to assist such accountants in understanding the special requirements related to HUD nonsupervised mortgage lenders.

IPA audits of mortgage lenders are commonly performed under contract or agreement as a management control and service to the mortgagee, and in part to satisfy the HUD requirement for submission of annual audited financial statements as a condition for continued mortgagee approval. The mortgagee is required by and responsible to HUD for compliance with HUD regulations and instructions; accordingly, certain audit procedures concerning compliance activities are prescribed herein. This guide is not intended to be an audit program nor is it intended to supplant the accountant's judgment as to the work required to be performed.

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AUDIT GUIDE—HUD APPROVED NONSUPERVISED MORTGAGEES

1. PURPOSE

This guide sets forth (a) the standards to be followed in the conduct of audits of approved nonsupervised mortgagees, and (b) the minimum scope of audit and report for-

mat which will be acceptable to the Department of Housing and Urban Development (HUD). It does not provide detailed audit procedures nor is it intended to supplant the accountant's judgment as to the work required to be performed.

2. BACKGROUND

a. HUD has responsibility for administering housing programs as provided for in the National Housing Act. This Act authorizes the Secretary of HUD to provide insurance protection to private lenders which provide mortgage financing to home buyers. HUD's ability to pay claims is guaranteed by the United States Government.

b. Private lenders (mortgagees) function as the focal point for the origination of mortgage loans. Operating as an approved mortgagee, each mortgage originator deals with builders, realtors, credit bureaus, title companies, and other housing industry entities in originating mortgages to be insured by HUD. Mortgagees are classified by HUD for approval purposes as either "supervised" or "nonsupervised" depending on the type of institution. "Supervised mortgagees" include Federal, State, or Municipal Government agencies and other institutions which are subject to inspection and supervision by a governmental agency that is required by law to make a periodic examination of the institution's books and accounts.

c. A mortgagee is categorized as "nonsupervised" when it is an institution that is not by law subject to supervision by a governmental agency or whose supervision is not considered adequate by HUD. A nonsupervised mortgagee is usually a corporation formed for the purpose of originating and servicing mortgage loans. The basic requirements for HUD approval of a nonsupervised mortgagee are:

- (1) It must be a chartered institution or other permanent organization having succession;
- (2) Its principal activity is in lending funds which are under its own control or investing these funds in mortgages;
- (3) It must have sound capital funds (net worth) properly proportioned to its liabilities and character and extent of its operations of not less than \$100,000 invested in assets acceptable to HUD (Note: In order to retain approval, the mortgagee must at all times maintain a net worth of not less than \$100,000.);
- (4) It must have experience in the mortgage origination and servicing fields and the general reputation of the principals must be acceptable to the Director of the HUD Field Office having jurisdiction;
- (5) It must present evidence showing the availability of sufficient credit lines from banks or other sources to adequately finance proposed mortgage originations;
- (6) It must agree to submit within 75 days after its fiscal year end an annual certified detailed audit of its books made by a CPA or other accountant satisfactory to HUD; and
- (7) It must agree to segregate and deposit in special accounts with a bank or banks whose deposits are insured by the FDIC or FSLIC that portion of the monthly payments received by it on insured mortgages on account of ground rents, taxes, mortgage insurance premiums (MIP), hazard insurance, etc., and to use those funds for no other purpose than for which they were received. It may commingle "FHA" escrow funds with VA or conventional escrow funds when prior HUD approval has been obtained.

An institution of this type may originate or purchase insured loans for its own service-

ing portfolio or for sale to any other approved mortgagee. It may retain the servicing for those mortgages sold.

d. *A nonsupervised mortgagee may conduct operations through branch offices in its home state and establish branch offices in contiguous states to originate and service HUD-FHA insured mortgages.*

A branch office may be approved in a noncontiguous state provided the mortgagee has additional net worth of \$50,000. For each additional noncontiguous state in which it establishes a branch office an additional \$50,000 in net worth is required until it reaches a maximum of \$250,000. Every branch office must be maintained as a separate entity from any other local business, be staffed with experienced personnel to adequately handle its business, and be under the management of an officer of the company.

e. *The processing of a mortgage loan for insurance is a three step sequence referred to as loan origination, which includes (1) the appraisal of the property, (2) the application for and approval of the mortgage (buyer), and (3) the closing of the mortgage loan. The three steps are further explained as follows:*

(1) *HUD is requested to estimate the value of a property by submission of FHA Form No. 2800, Mortgagee's Application for Property Appraisal and Commitment for Mortgage Insurance Under the National Housing Act. Upon acceptance of the application for processing, an FHA case number is assigned and the property is appraised. If the property has been appraised by the Veterans Administration (VA), a VA Certificate of Reasonable Value (CRV) is submitted with the FHA Form No. 2800 to HUD and HUD accepts the value established by the VA. HUD's appraisal or the VA CRV is used to establish the maximum mortgage amount. HUD issues to the mortgagee a conditional commitment showing the total value on which the maximum mortgage will be based and other commitment requirements such as repairs that must be completed to place the property in a condition acceptable to HUD. (NOTE: Where single family condominium units are involved, FHA Form 3280, Mortgagee's Application for Blanket Commitment, together with required exhibits and attachments is prepared and submitted in lieu of the Form 2800 package.)*

(2) *At the time of submission of the application for property appraisal or after HUD's acceptance, the mortgagee submits FHA Form No. 2900, Mortgagee's Application for Mortgage Approval and Commitment for Mortgage Insurance Under the National Housing Act. This form provides the information HUD needs to determine a mortgagee's probable ability to make his mortgage payments and to maintain the property. Information is furnished by the mortgagee for completing this application and the mortgagee is responsible for verifying to the extent possible the information supplied. Evidentiary documentation supporting the information shown on the FHA Form No. 2900 is required as attachments or exhibits to the application. These include credit reports, verification of employment and/or deposit, and other documents to support statements made in the application. If HUD's review indicates the mortgagee to be an acceptable credit risk, a firm commitment is issued to the mortgagee imposing requirements in addition to those required on the conditional commitment. Upon meeting the terms and conditions of the conditional and firm commitments the case proceeds to loan closing. (NOTE: Mortgage approval processing for condominium units is also accomplished with the Form 2900 package except that the firm commitment (Form 2900-4) is replaced by FHA Form 3275, Commitment for Insurance of Individual Mortgage.)*

(3) *When the conditions imposed by the conditional and firm commitments are satisfied (or will be satisfied at loan settlement) and it is determined that good marketable title can be obtained, the loan will be closed. Loan settlement consists generally of the execution of various closing documents such as the mortgage and mortgage note and the disbursement of funds involved in the transaction. Depending on local custom and law, the closing may be conducted by the mortgagee, closing attorneys, and/or title companies. Following the closing of the loan and disbursement of the loan proceeds, the mortgagee submits various documents to HUD for review, including a Mortgage Insurance Certificate, a copy of the mortgage, mortgage note and a loan closing statement disclosing the exact source of funds comprising the sales price of the property and the disposition made of the funds. Upon HUD review and acceptance of the submissions, the mortgage insurance certificate is endorsed by HUD and returned to the mortgagee. The certificate evidences the contract of insurance between HUD and the mortgagee.*

f. *After the mortgage loan is closed, the loan account is considered to be in "loan servicing." In general, HUD requires that approved mortgagees service their insured mortgage accounts in accordance with the accepted practices of prudent lending institutions. This is interpreted as meaning that an insured mortgage account is to be handled in exactly the same manner as are those accounts which are not insured, where the mortgagee is entirely dependent on the security for the protection of its investment. Basic elements of prudent mortgage servicing are discussed as follows:*

(1) *Mortgage servicing begins at or before loan closing to the extent that the mortgagee must make certain that the mortgagee understands the obligation being assumed and the responsibilities which accompany the mortgage transaction. In order to preclude most postclosing complaints, questions, or misunderstandings, the mortgagee should explain escrow accounts and their purpose, due dates of mortgage payments, and late charges which may be assessed the mortgagee in the event of untimely payments.*

(2) *Escrow accounts are established at loan closing. Subsequently, the mortgagee must collect from the mortgagee monthly installments sufficient to provide funds to pay bills for taxes, hazard insurance premiums, and FHA MIP as they come due. These escrow funds may be used only for the purpose for which they were collected and appropriate procedures should exist to ensure that all amounts payable from escrow funds are paid on a timely basis. Each mortgagee's escrow account must be analyzed at least annually. In addition, the mortgagee must be furnished with an accounting of the funds disbursed from the account during the year.*

(3) *The mortgagee may be required by the mortgage security instrument to maintain hazard insurance with an insurance carrier in an amount acceptable to the mortgagee. Mortgagees do not necessarily have to require hazard insurance under HUD regulations; they may self-insure or rely on some sort of blanket insurance coverage which does not involve separate conventional policies. However, only if the mortgagee is required by the mortgagee to maintain hazard insurance on the property and is permitted to choose, within reason, the company to provide the insurance, can he (mortgagee) be required to bear the cost of the insurance.*

(4) *The mortgagee's collection program should encompass two aims: to collect amounts owed to the mortgagee and to prevent any avoidable foreclosure of a mort-*

gage. A sound collection program is one which contains provisions for mailing "reminder" and "delinquency" notices to mortgagees, utilization of telephone calls as reminder contacts, and personal contacts with delinquent mortgagees in attempts to collect. All collection attempts and contacts should be documented in loan files maintained by the mortgagee for each mortgagee.

g. *In addition to the foregoing single family loan activity, the auditor may find that the mortgagee participates in the Government National Mortgage Association's (GNMA's) Mortgage-Backed Securities Program (MBSP). Under the MBSP, GNMA is authorized to guarantee the timely payment of principal and interest on mortgage-backed securities issued to the public by approved entities (issuers). An issue of GNMA backed securities must be secured by a pool containing mortgages (generally single family) that are insured or guaranteed by HUD, the Farmer's Home Administration (U.S. Department of Agriculture) or the VA. The securities issuer is responsible for administering (servicing) the pooled mortgages for which it is entitled to a reasonable fee. Securities issued are referred to as pass-through securities because principal and interest collections on mortgages backing the pool are passed on to the security holders.*

3. REFERENCE MATERIAL

Appropriate HUD regulations and requirements are contained in the following reference material and will be helpful to the independent public accountant (IPA) in the performance of the audit. This material should be available at the mortgagee's offices. In the event the mortgagee does not have all of the reference material or additional material is considered necessary, it may be obtained from the HUD Field Office in whose jurisdiction the mortgagee operates.

Identification number	Subject
HUD Handbook 4000.2 (3/75).	Mortgagee's Handbook—Application through Insurance (Single Family).
4110.2 (7/72) and Changes.	Mortgagee's Guide—Home Mortgage Insurance Fiscal Instructions.
FHA 3000 (2/73) and Changes.	FHA Home Mortgage Insurance Regulations.
4191.1 (4/18/74).	Administration of Insured Home Mortgages.
GNMA 5500.1C.	Government National Mortgage Association Mortgage-Backed Securities Guide.

In addition to the above, interim instructions to mortgagees are issued by HUD in the form of Mortgagee Letters. These letters are issued periodically to clarify or implement HUD policy. The mortgagee should have these letters available.

4. AUDIT AUTHORIZATION

a. The Inspector General reports directly to the Secretary and is responsible for and directs the overall audit activities relating to HUD programs. He has delegated to the Assistant Inspector General for Audit the authority to develop and implement HUD's audit activities.

In its application for approval, the mortgagee agreed that it would submit at any time to such examination of its records and accounts as the Secretary may require and to submit annual financial statements audited and certified by a CPA or IPA within 75 days following the end of its fiscal year. The reviews required by this guide are considered within the purview of examination which may be required by the Secretary. The working papers and other documents supporting the accountant's opinions, conclu-

sions, and recommendations shall be made available to authorized representatives of the Secretary upon their request.

b. *To be acceptable an IPA must be a certified public accountant or a public accountant licensed by a regulatory authority of a State or other political subdivision of the United States on or prior to December 31, 1970. As required by AICPA standards, or the equivalent thereof, the IPA must be independent of the entity being audited.*

5. AUDIT SCOPE AND COVERAGE

a. *In addition to the objectives of the audit, the IPA should determine whether the mortgagee has complied with the terms and conditions of the approval agreement, and report the mortgagee's net worth in accordance with paragraph 7.a. The IPA should also determine and report on the mortgagee's compliance with applicable HUD regulations and requirements through application of tests and procedures contained in Appendix 3.*

b. *Audit must be sufficiently comprehensive in scope to permit the expression of an opinion on the financial statements in the report and must be performed in accordance with generally accepted auditing standards and the audit requirements as set out in this audit guide. As used in these instructions, the term "expression of opinion" includes either (1) an unqualified opinion, (2) a qualified opinion, (3) a disclaimer of opinion, or (4) an adverse opinion. If a qualified or adverse opinion is expressed or if an opinion is disclaimed, the reasons therefor must be fully explained. An opinion, qualified as to a scope limitation, will not be acceptable.*

c. *The opinion should state whether in all material aspects the financial statements present fairly the financial position of the mortgagee at the closing of its fiscal year. The IPA is also required to comment on any material weaknesses noted in the mortgagee's system of handling funds and mortgagee escrow accounts and funds. The IPA must also comment on the application of the tests and procedures contained in Appendix 3 and the results of those tests. The required statements may be included in the Comments on Compliance and Internal Control section of the report, as illustrated in the example accountant's report (Appendix 5) or a separate compliance report attached to the report on audit.*

d. *The accountant's opinions, comments, and conclusions are to be based on audit work performed. Audit work will usually be performed on a selective test basis, to the extent deemed necessary by the IPA.*

e. *The Department of Housing and Urban Development, as stated in the preceding paragraph, considers that the IPA should determine the extent of tests required in each phase of the audit. However, at meetings with the representatives of the Mortgage Bankers Association of America (MBA) and the American Institute of Certified Public Accountants (AICPA), they indicated that in their opinion, HUD should indicate the extent of tests which it would consider acceptable for the compliance aspect of the work to be done by the IPA. Because of this, HUD will consider a test of transactions ranging from 5 to 10 percent to be acceptable. This range is intended for guidance only and is not to be considered a floor or ceiling. The size or extent of the tests may be reduced or expanded as considered necessary by the IPA in each area of activity, depending on the nature of the operation and based on the study and evaluation of the mortgagee's procedures and system of internal operating control.*

6. AUDIT STANDARDS

The audit work must be performed in accordance with auditing standards equivalent

to those established by the American Institute of Certified Public Accountants (AICPA). The accountant's working papers are expected to conform to the guidelines prescribed by the AICPA in its Statement on Auditing Standards.

7. AUDIT REQUIREMENTS

The following requirements are not intended to limit in any way the scope of audit nor the examination of transactions or extent of tests performed by the IPA. The audit coverage and extent of tests will be determined by the IPA in accordance with prescribed auditing standards and should be shown in the audit working papers. The IPA is required to comment in the working papers on noncompliance with the following items. Appendix 3 details specific procedures and questions which the auditor is to include as a part of the compliance reviews.

a. *Audit of Annual Financial Statements and Analysis of Net Worth—(1) In accordance with its approval agreement the mortgagee is required to submit annual financial statements audited and certified by a CPA or IPA within 75 days following the close of the mortgagee's fiscal year. In the event the mortgagee has affiliated companies or subsidiaries, separate statements should be presented for the parent and each of the affiliated and/or subsidiary companies. Consolidated financial statements will be acceptable; only if financial information is provided separately for subsidiary and affiliated companies as well as the consolidated totals.*

(2) *Certain assets are not considered acceptable by HUD for the computation of net worth to determine whether minimum financial requirements have been met for continued HUD approval as a mortgagee. The Analysis of Net Worth is designed to eliminate those assets not considered acceptable by HUD in deriving the mortgagee's net worth figure. In general, the analysis consists of tabulating those assets not considered acceptable to HUD and reducing the net worth shown on the certified financial statement (balance sheet) by that amount. Appendix 1 contains a listing of assets which are considered acceptable and unacceptable to HUD and guidelines for the presentation of the adjusted net worth information.*

b. *Internal Controls—(1) The IPA shall review and evaluate the mortgagee's system of internal control in accordance with generally accepted auditing standards. The purpose of internal control is to provide reasonable assurance as to the safeguarding of assets against loss from unauthorized use or disposition, and the reliability of financial records for maintaining accountability of assets and for preparing financial statements.*

c. *Escrow Accounts—(1) A nonsupervised mortgagee agrees on its application for approval to segregate, as appropriate, escrow commitment deposits, work completion deposits, and all periodic payments which are received on account of ground rents, taxes, assessments, and insurance premiums on HUD insured mortgages. The mortgagee further agrees to deposit such funds received in a special account or accounts with a financial institution where deposits are insured by the FDIC or by the Federal Savings and Loan Insurance Corporation and to use the funds for no purpose other than that for which they were received. Thus, the "commingling" of escrow funds, even temporarily, is prohibited except that the mortgagee may use one bank account to deposit escrow funds collected on HUD-FHA, VA, or conventional loans in the event that prior written approval is obtained from the Secretary.*

Often mortgagees remit with their monthly mortgage installment payments monthly premiums for life or disability income insurance which they may carry. This is permitted

as long as the mortgagor has not been required by the mortgagee to obtain such insurance as a condition to obtaining the insured mortgage. If the mortgagee has not been authorized by HUD to commingle escrows, the amounts collected for life or disability income insurance premiums must be separated from all other elements of the payment and deposited in a separate escrow account. If commingling of escrows has been approved, the insurance premiums may be deposited in the escrow account and withdrawn to pay insurance premiums when due. However, disbursements from the escrow account for payment of life or disability income insurance shall not exceed the net amount collected and deposited for that purpose at the time the disbursement is made.

(2) *Appendix 3 details specific procedures which the IPA must include in the reviews of escrow accounts.*

d. *Branch Office Operations—(1) FHA approved nonsupervised mortgagees are required to obtain approval from HUD in order to operate an authorized branch office for origination of HUD-FHA mortgages. As discussed in section 2.d of this guide, there are additional net worth requirements in the event a branch office is located in a noncontiguous state. In requesting approval of a branch office, the mortgagee is required to certify to various conditions set forth on FHA Form No. 2001-F, Application for Approval of Branch Office. These conditions include:*

(a) *The office will be a separately located unit of the parent corporation in which no business other than that of the corporation will be conducted;*

(b) *The office will be maintained, staffed, and identified to the public separately from any other business and no business other than that of the corporation will be conducted by employees of the branch;*

(c) *The manager of the office will always be a corporate officer or will otherwise be authorized to bind the corporation in matters involving the origination and servicing of mortgage loans;*

(d) *The manager and staff of the branch office will be employees of the corporation and the corporation will pay all operating costs of the office as well as the salaries of the staff;*

(e) *The office will be open to the public during normal business hours; and*

(f) *The office will provide convenient facilities and will be staffed with qualified employees so that mortgagors can promptly obtain current information about their mortgage accounts during normal business hours.*

In addition to the above, the mortgagee must certify on the application for branch office approval that HUD will be notified within 10 days of the closing of any approved branch office and that adequate measures will be taken in the event of the closing of a branch to assure adequate, uninterrupted service to mortgagors who had previously obtained service from the branch.

(2) *Appendix 3 details specific procedures that the IPA should include in reviews of branch operations.*

e. Loan Originations—

NOTE.—If the Mortgagee has not originated any mortgage loans during the audit period for insurance by HUD, this item and item 7.f need not be considered.

(1) *In originating and processing loans to be insured by the Government, the mortgagee is responsible for exercising care and good judgment to ensure that information submitted to HUD concerning the prospective mortgagor is reasonably correct.*

In this regard, the mortgagee must obtain information from the mortgagor regarding his income, assets, and credit history. In order to fulfill its responsibility to exercise

care and judgment, the mortgagee must verify the information obtained.

(2) *In requesting approval of a mortgagor*, the mortgagee submits FHA Form No. 2900, Mortgagee's Application for Mortgagor Approval and Commitment for Mortgage Insurance Under the National Housing Act, which reports information obtained from the mortgagor and verified by the mortgagee. A copy of the Form 2900-1 is retained by the mortgagee. Required documents must accompany this submission to evidence and support the mortgagee's verifications and conclusions that the mortgagor is an acceptable mortgage risk. These include a credit report, verification of employment, verification(s) of deposit, copy of the real estate sales contract, and other documents needed to support statements in the form. The verifications must be obtained without passing through the hands of the mortgagor or any other third party.

(3) *The IPA should test the loan originations* by reviewing individual loan files and applying compliance audit steps (Appendix 3) concerning loan originations.

1. *Loan Settlement* (see note to item 7.e)—(1) *Loan closing consummates transfer of the property from the seller to the purchaser and creation of the mortgage loan.* At this time the legal instruments are executed, mortgage proceeds are disbursed on behalf of the mortgagor, various fees and charges are collected from the parties to the transaction, and escrows are established. Depending on local customs and laws, mortgage loans may be closed by closing attorneys (employees of the mortgagee or otherwise), title companies, or abstract companies.

(2) *The Real Estate Settlement Procedures Act of 1974, as amended, provides for the use of a standard form (HUD-1) for the statement of settlement costs in all transactions in the United States which involve federally related mortgage loans.* All settlement service charges are to be included on the HUD-1 except charges for services which are not required by the lender or which are paid for separately outside of settlement. When the lender requires the borrower to secure a settlement service and the service is paid for outside of settlement, the charge is to be shown on the HUD-1 and noted as paid for outside of settlement. A listing of the types of fees and charges most commonly collected from mortgagors is shown in Appendix 2.

(3) *The IPA should test loan closings* by reviewing settlement statements and applying compliance tests shown in Appendix 3.

g. *Loan Servicing and Collection Activities*—(1) *The aim of a mortgagee's servicing and collection program should be to collect amounts owing to the mortgagee and to prevent avoidable foreclosure of the mortgage.* HUD Handbook 4191-1 provides guidance and instructions to mortgagees with regard to mortgage servicing and collection programs. Chapters 1, 2, 4, 7 and 8 describe the background and procedures and practices for sound servicing and collection programs. HUD also recognizes that servicing and collection programs which might be prescribed by investors or independently adopted by a mortgagee may also represent viable programs. In this regard, such programs are acceptable so long as they substantially comply with the practices and procedures recommended by HUD.

The IPA should be familiar with the above mentioned Chapters of HUD Handbook 4191.1 and applicable Mortgage Letters.

(2) *The IPA should make tests of the mortgagee's compliance with HUD Handbook 4191.1 and applicable HUD Mortgage Letters concerning servicing.* Delinquent and defaulted loans should be reviewed and com-

pliance questions regarding mortgage servicing should be applied to evaluate servicing collection activity. See Appendix 3 for the procedures and questions relating to mortgage servicing and collection.

h. *Section 235 Assistance Payments and Recertifications of Section 235 Homebuyers*—(1) *The Housing and Urban Development Act of 1968 established Section 235 of the National Housing Act to assist lower income families in acquiring homes.* Assistance is in the form of monthly payments by HUD to the mortgagee. The amount of subsidy will vary according to the income of each homeowner and the total amount of the mortgage payment at the market rate of interest.

(2) *Procedures regarding assistance payments*, billings to HUD for such payments, and recertifications of homeowners for assistance payments are discussed in general below. More detailed information is contained in HUD Handbook 4191.1, chapter 10. Conditions under which assistance payments may be made are such that additional duties are imposed upon the mortgagees participating in the program. Basically, the mortgagee must obtain annual recertifications from mortgagors as to occupancy, income, family composition, and other requirements that must be met for continued assistance eligibility under Section 235. Assistance payments to a mortgagee on behalf of a qualified homeowner may be made only during such time as the homeowner occupies the property and his adjusted income remains sufficiently low to necessitate assistance. With regard to the mortgagor's income, family composition, and occupancy of the property, the mortgagee is required to obtain a recertification from the mortgagor annually, no earlier than 60 days before and no later than 30 days after, each anniversary date of the first monthly mortgage payment due. In the event the mortgagor does not return recertification documents (when they are timely mailed by the mortgagee) by 30 days after the anniversary date, assistance payments are to be suspended.

The mortgagee may establish a mortgage anniversary date of its choice for recertification purposes to be applied to all Section 235 mortgages serviced by the mortgagee. This arbitrary recertification date is discussed in detail in Handbook 4191.1, Appendix 13. Optional recertifications in addition to the annual recertifications are allowed.

The mortgagee is also required to verify the income information provided by the mortgagor with the mortgagor's employer. Utilizing information obtained in the recertification, the mortgagee must recompute and adjust as necessary the amount of assistance payment to be billed HUD. The maximum amount of monthly assistance payment which can be made to the mortgagee on behalf of a qualified homeowner is the lesser of the amounts computed under two formulas provided in the National Housing Act. These formulas are referred to as Formulas 1 and 2, (see HUD Handbook 4191.1, Chapter 10).

(3) *Computations of monthly assistance payments* under both formulas are summarized on FHA Form No. 3103, Monthly Summary of Assistance Payments Due Under Section 235, which also includes information as to handling charges allowed by the Secretary to the mortgagee for additional expenses incurred in servicing the Section 235 mortgages. Total amounts are transferred from FHA Form 3103 to FHA Form No. 3102, Mortgagee's Certification and Application for Assistance or Interest Reduction Payments, which the mortgagee submits to HUD in applying for payment.

(4) *The IPA should review mortgagee records and files concerning Section 235 mortgages and apply the compliance reviews shown in Appendix 3.*

i. *Mortgage Backed Securities*—(1) *The mortgagee may be approved to pool mortgages and issue securities to the public.* The securities are referred to as pass-through securities because the principal and interest collected on the mortgages backing them are passed on to the security holders. At the issuer's (mortgagee's) option, the securities may be either straight or modified pass-through securities. Owners of straight pass-through securities are paid a proportionate share of mortgage collections, less a stipulated service charge, no later than 15 days after the end of the month in which they are collected. Owners of modified pass-through securities are paid a specified amount of principal and interest no later than 15 days after the end of the month in which the principal and interest installments on the mortgages become due, whether or not they are collected. In either case, mortgages backing the securities must be delivered to a custodian acceptable to GNMA for safe keeping.

(2) *In administering the pool(s) the mortgagee is required to maintain separate bank accounts for escrow funds and collections of principal and interest applicable to the pooled mortgages.* In the event the mortgagee administers more than one pool, the mortgagee has the option of combining funds from all pools into the two accounts or maintaining separate accounts for each pool.

(3) *Appendix 3 details specific procedures* which the IPA must include in reviews of mortgage backed securities.

j. *Operations and Status Report.* The IPA should request the mortgagee to complete an Operations and Status Report to include all of the information listed in Appendix 4, Guide for Preparation of the Operations and Status Report. This Operations and Status Report should be submitted with the audit report.

8. AUDIT REPORT

The report should encompass the operations of the mortgagee for the one-year period coinciding with its fiscal year. As a minimum, the report should contain the following:

- Accountant's report;
- Balance sheet—as of the close of the fiscal year;
- Statement of Operations and Retained Earnings—for the year ending with the close of the fiscal year;
- Statement of Changes in Financial Position—for the year ending with the close of the fiscal year;
- Notes to the Financial Statements;
- Computation of Adjusted Net Worth;
- Comments on Compliance and Internal Control; and
- Operations and Status Report.

The Comments on Compliance and Internal Control section of the report should include the IPA's recommendations and observations warranting the attention of mortgagee and HUD officials (see Introduction to Appendix 3). The views and comments of mortgagee officials should be included for each item whenever possible. Comments should also be made as to the status of corrective action taken or to be taken by the mortgagee on these items.

In instances where serious irregularities, such as fraudulent reports or statements to HUD or embezzlements, are noted, the IPA should promptly notify the appropriate Regional Inspector General for Audit for guidance (see Appendix 6).

The IPA must submit two copies of the report directly to HUD. In addition, the management letter or excerpts therefrom which relate to HUD program matters (e.g., FHA insured mortgages, GNMA MBS pools, Section 235 subsidy payments, etc.) must be submitted with the report. The report should be sent to: U.S. Department of Housing and Urban

Development, Director, Office of Mortgagee Activities and Participant Compliance, 451 Seventh Street, S.W., Washington, D.C. 20410.

9. GENERAL

The working papers of the IPA are to be made available to representatives of HUD upon request by the Inspector General, HUD or his authorized representatives. The working papers may be reproduced by HUD at its own expense, if such need arises.

Approved: _____

JAMES B. THOMAS,
Inspector General

JUNE 30, 1976.

APPENDIX 1.—SAMPLE FORMAT FOR PRESENTATION OF ADJUSTED NET WORTH

	Dollars
Net worth per balance sheet (see Attachment _____)	\$ _____
Less:	
Unacceptable Asset Items ¹ (list and explain fully) _____	_____
Total unacceptable assets _____	_____
Adjusted Net Worth _____	(²) _____

¹The following pages describe assets that HUD considers unacceptable in computing adjusted net worth.

²In the event adjusted net worth does not meet or exceed FHA's \$100,000 requirement (HUD Handbook 4000.2) (or higher amount as may be dictated by branch operations), the IPA may include any comments from representatives of the mortgagee on corrective measures contemplated. HUD will correspond with the mortgagee regarding the adjusted net worth deficiency.

ACCEPTABLE AND NONACCEPTABLE ASSETS FOR COMPUTATION OF ADJUSTED NET WORTH

ACCEPTABLE

1. Cash.
2. Listed stocks and bonds (marketable securities) at the lower of cost or market value.
3. Unlisted stocks are acceptable at the lower of cost or equity as substantiated by a statement from a stockbroker maintaining a market in the stock or a current balance sheet of the company in which the mortgagee has an investment (show the percentage of ownership in the company's stock).
4. Saleable first mortgages. Those receivable from a related construction company are acceptable if current and handled in the same manner as those receivable from unrelated concerns. See exception on first mortgages in item 2 under unacceptable assets.
5. Second mortgages on real estate that are receivable from unrelated concerns are acceptable at discounted or market value if they are being amortized and are current.
6. Notes and accounts receivable taken in the course of normal business less an allowance for doubtful accounts. Such receivables from affiliated companies not owned or controlled by officers or stockholders of the mortgagee will be considered acceptable. See the exception on notes and accounts receivable in item 4 under unacceptable assets.
7. Property for sale or investment is acceptable. However, such property occupied by officers or stockholders is acceptable only if the occupancy is temporary and the rental accrues to the mortgagee.
8. Commitment fees or deposits with investors are acceptable only to the extent they are refundable or recoverable.
9. The costs of mortgage servicing contracts purchased from unrelated mortgagees are acceptable provided the purchases are bona fide arms length transactions, the prices paid were in line with market values,

the investments are amortized in accordance with IRS standards and the costs of any contracts cancelled, transferred, or sold are written off at the time of such cancellation, transfer, or sale.

10. Sound and current real estate contracts. See exception on such contracts under item 7 under unacceptable assets.

UNACCEPTABLE

1. Any asset pledged for obligations of others or Certificates of Deposit and other cash pledged for the required revolving line of credit for warehousing mortgage loans.
2. Mortgages on the homes of or receivable from officers or stockholders of the mortgagee.
3. Second mortgages and other junior liens receivable from officers, stockholders, or related bodies or interests. Other junior liens, chattels, and strictly accommodation loans completely unrelated to the mortgage industry are unacceptable.
4. Notes and accounts receivable from officers, stockholders, related concerns, or companies related by common ownership or management.
5. Property on which benefits accrue to officers or stockholders. Property occupied by officers or stockholders is unacceptable if the occupancy is not temporary or rental income does not accrue to the mortgagee entity.
6. Prepaid items are generally unacceptable, except insurance premiums and interest up to and including 5 years prepayments.
7. Real estate contracts (sound and current) receivable from officers, stockholders, or other related concerns.
8. Deferred costs and expenses except those explained in item 9 under acceptable assets.
9. Goodwill.
10. Value placed on insurance or property management business or other intangibles of like character or nature.

APPENDIX 2.—FEES AND CHARGES WHICH MAY BE COLLECTED FROM MORTGAGORS

The following is a general discussion of fees and charges which may be collected from the mortgagor. A more detailed explanation of the fees and charges is contained in Chapter 8 of the Mortgagees' Handbook, HUD Handbook 4000.2, Application Through Insurance (Single Family).

1. Insurance application/commitment fee.—The amount of this fee is dependent upon the type of application; for instance, proposed construction, existing structure, etc. The mortgagor cannot be charged a commitment extension fee unless the need for the extension results directly from some act or omission on his part.
2. Origination fees.—As compensation for its work in originating and closing the mortgage, the mortgagee is entitled to collect an origination fee. Generally, this fee is 1 percent of the original principal amount of the mortgage.
3. Closing costs.—These are charges which may be paid by any party to the transaction, including the mortgagor. Where paid by the mortgagor, they must be itemized on his loan closing statement and are limited as follows:
 - a. Credit report charges.—The actual cost of the reports.
 - b. Property surveys.—Such surveys are not required by FHA. When the permanent lender (mortgagee) requires a survey, its cost may be charged to the mortgagor.
 - c. Title examination and title insurance.—FHA does not require submission of title evidence when the mortgage is insured. If the mortgagee requires title examination or insurance, its actual cost may be charged to the mortgagor.

d. Attorney's fees.—Fees for such things as preparation of the mortgage documents may be charged the mortgagor only if the service was performed by someone other than an employee of the mortgagee.

e. Closing fees.—If the mortgagee or its employee acts as the closing agent, no fee other than the origination fee (item 2 above) may be charged. If the closing agent has no identity of interest with the mortgagee and is an independent individual or concern engaged by the mortgagee to close the loan, its fees may be charged to the mortgagor. A subsidiary of the mortgagee, established for the sole purpose of closing loans for the mortgagee, does not qualify under this definition, although a subsidiary which regularly closes loans for several different mortgagees would qualify. In all instances, the fee charged to a mortgagor is limited to the actual cost to the mortgagee.

f. Broker's fees.—Such fees may be paid by the mortgagor to a broker engaged by him, independently of the mortgage transaction, to obtain mortgage financing. Broker's fees are prohibited if the broker represents the mortgagee or if the mortgagee has any financial interest in the broker or his business.

g. Recording fees and taxes.—Such fees as are customary or required in the area may be charged to the mortgagor.

h. Tests or treatments.—Fees for tests required by FHA, such as tests of water supplies or testing for or treating insect infestation, may be paid for by the mortgagor. The charge to the mortgagor is limited to actual costs for services.

i. Discounts.—Reasonable and customary charges in the nature of discounts may be collected from the mortgagor only under the following conditions:

- (1) The mortgagor is an operative builder constructing homes for sale who executes the mortgage in his own name.
- (2) The mortgagor is constructing a home for his own occupancy.
- (3) The mortgagor is refinancing existing indebtedness on the property securing the insured mortgage.
- (4) The mortgagor is purchasing the home from a government agency or corporation which is prohibited by law from paying a discount or is purchasing at an auction ordered by a court.

APPENDIX 3.—COMPLIANCE AUDIT GUIDE FOR APPROVED NONSUPERVISED MORTGAGEES

INTRODUCTION

This audit program is for the U.S. Department of Housing and Urban Development (HUD). The examination by the independent public accountant will include tests of the records of the mortgagee for compliance with HUD regulations and guidelines in accordance with generally accepted auditing standards.

The compliance reviews and questions presented in this Appendix are intended to guide the auditor in reviewing files to fulfill various audit requirements of the guide. In completing these reviews, the mortgagee's systems and controls over the functions should be tested.

The following is quoted from the Uniform Single Audit Program for Mortgage Bankers and is intended to guide the accountant in reporting.

"It is not contemplated that the report will include a list of each exception or error found in the records by the independent Certified Public Accountant during the audit. Exceptions or errors in records relating to mortgages serviced for others generally will not be reported when the independent Certified Public Accountant believes such conditions represent isolated exceptions or errors that are

not significant in relation to the number of records examined or have been corrected in the normal functioning of the accounting system."

The above is generally in consonance with our reporting requirement. However, it is expected that errors or exceptions which are significant or that represent a pattern of non-compliance with HUD regulations or guidelines must be disclosed.

Evaluation of significant departures from compliance with FHA regulations or guidelines require the exercise of professional judgment by the independent Certified Public Accountant. The guidelines herein are not intended to limit the exercise of professional judgment of the independent Certified Public Accountant, but are for the purpose of providing a basis for such evaluation.

The report should include items as to which the independent public accountant has either: (1) concluded that the item is a significant departure from compliance with FHA regulations or guidelines, or represents a pattern of non-compliance; or (2) formed no conclusion in this respect.

In reporting items on which the independent public accountant has formed no conclusions as to compliance, sufficient explanatory comments should be included in the report to permit the reader to make his own evaluation as to compliance. Comments concerning items which are not considered significant by the independent public accountant, and are not included in his report, would generally be submitted to the mortgagee for appropriate action.

REVIEWS OF ESCROW ACCOUNTS

(HUD HANDBOOK 4191.1)

CHAPTER 2

Escrow accounts must be established and maintained in compliance with HUD regulations. The IPA's review of escrow accounts is to include the following:

1. Obtain trial balances of individual escrow accounts, and reconcile or review the reconciliation of the total with the mortgage banker's control account and the related bank account.

2. For selected mortgages, obtain the most recent escrow analysis, note that it was prepared not more than one year ago, and that the monthly deposits appear adequate to provide for payments of taxes, insurance, etc. Also, note that the most recently due real estate tax bill(s) for such account was paid on a timely basis.

3. On accounts selected for review above, inspect supporting documents for disbursements from escrow accounts such as receipted invoices, tax bills or canceled checks.

4. Ascertain that the mortgage banker covered any overdrafts on accounts selected above, by advancing his own funds to custodial account so that FDIC insurance protection was not impaired.

BRANCH OFFICE OPERATION

(HUD HANDBOOK 4000.2—PARAGRAPH 3-5)

The mortgagee may conduct operations in branches approved by HUD. In his review of the branch office operations, the IPA is to determine that:

1. The increased HUD net worth requirements for operation of branch offices in non-contiguous states are met.

2. With respect to the branch offices included in the review, determine that:

- a. The branch office manager is a corporate officer or employee authorized to bind the corporation in matters involving loan origination and servicing.

- b. All branch personnel are employees of the corporation.

- c. All branch office operating costs, including salaries, are paid by the mortgagee.

REVIEWS OF LOAN ORIGINATION

(HUD HANDBOOK 4000.2—CHAPTER 6)

The information on the mortgagee's copy of FHA Form 2900-1 represents the information on supporting documents in the mortgagee files. The following verification work should be performed.

1. Determine that mortgagee's employer, length of employment, and income data on the application (2900-1) agrees with verification(s) of employment (FHA Form 2004-G) or other sources.

2. Determine that mortgagee's cash assets on the application (cash and deposits) agree with verifications of deposits or other authorized documentation.

3. Compare mortgagee's liabilities on the application with credit reports from third parties and other sources to determine that the mortgagee's liabilities as stated on the application are not materially misstated. Review the propriety of explanations of differences including the existence of more than one credit report.

4. Determine that the cash deposit on purchase (earnest money) as shown on 2900-1 item 8 and 12(h) agrees with the amount shown on sales contract and the loan settlement statement (HUD Form 1).

5. If conflicting information has been obtained as noted in the above tests, determine that there is documentation in the mortgagee's files explaining the reasons for such conflicting information. Examples of such conflicting information would be two credit reports at approximately the same time, but the report showing the most favorable information was shown on Form 2900-1, two verifications of employment from the same employer, etc. (Also, see paragraph 8 of the guide.)

REVIEWS OF LOAN SETTLEMENT

The IPA is to test loan closings by reviewing settlement statements. Closing costs allowed by HUD are stated in Handbook 4000.2, Chapter 8, paragraph 8-3.

1. Determine that the fees and charges collected do not exceed the actual costs to the mortgagee.

2. Review amounts collected to establish escrows for taxes, hazard insurance, and MIP and determine they were properly computed and supported by reasonable documentation.

3. Determine that interest collected from the mortgagee at closing was properly computed (See Chapter 8, paragraph 8-1(d)).

Where loans are closed by title companies or attorneys, interest may not be collected from the date the mortgage proceeds are disbursed to the title company or attorney unless they in turn disburse the funds for the full benefit of the mortgagee on the same date. The dates of disbursement of loan proceeds should be obtained from the title company or attorney by personal visit, written confirmation or telephone contact.

4. Determine that the downpayment shown on the sales contract is accounted for on the settlement statement.

REVIEWS OF LOAN SERVICING

The IPA is to review servicing records for selected delinquent and defaulted loans (including loans in foreclosure) to determine mortgagee compliance with the following rules and regulations. Based upon the reviews and tests described herein, the IPA will determine whether there is substantial compliance with HUD requirements.

1. The mortgagee's records shall be documented to reflect its collection activities on delinquent and defaulted mortgages (HUD Handbook 4191.1, paragraph 105c).

- a. Determine that the mortgagee regularly maintains individual collection records showing collection activities.

- b. Determine that those records show collection contacts attempted and completed, and the results of those contacts.

2. The mortgagee must communicate with the mortgagee or make a reasonable effort to do so in order to determine the cause of default. (HUD Handbook 4191.1, paragraphs 103 and 107, and HM Mortgagee Letter 75-10, paragraph 4b).

- a. Determine that the servicing records show efforts to contact the borrower during the delinquency, including, when appropriate, face-to-face interview as required by HM Mortgagee Letter 75-10, paragraph 4b.

- b. Determine from the records, that if one type of contact effort is unsuccessful, that the mortgagee attempts contacts of other types.

- c. Determine that the servicing records show the receipt of explanation from the mortgagee for the cause of the default.

- d. Determine from the records that the mortgagee considers circumstances involving nonpayment on mortgages in default, rather than only demanding payments.

3. The mortgagee is to accept partial or late mortgage payments offered by mortgagees as provided for in HUD Handbook 4191.1 paragraph 63 and 108, and HM Mortgagee Letter 75-10, paragraph 5.

- a. Determine that the mortgagee did not improperly return payments less than the total amount due.

- b. Determine that the mortgagee did not improperly reject payments received late without late charges.

4. The mortgagee should offer special relief measures such as informal forbearance or informal workout repayment plans where plans are appropriate. (HUD Handbook 4191.1, paragraph 122 and HM Mortgagee Letter 75-10, paragraph 4b).

- a. Determine that the mortgagee reviews cases to ascertain if such relief measures should be offered to the mortgagee.

5. During the course of reviews of delinquent and defaulted loans, the IPA should be alert for charges collected from mortgagees in connection with servicing of the loans. Charges to borrowers for servicing activities should be in allowable amounts and computed correctly. (HUD Handbook 4191.1, paragraphs 61, 63, 64, 67 and 68) The IPA should:

- a. Determine that late charges to borrowers are allowable and computed correctly.

- b. Determine that charges for checks returned due to insufficient funds are properly assessed.

- c. Determine that charges to mortgagees for attorney fees are proper in accordance with paragraphs 67 and 68.

REVIEWS OF SECTION 235—ASSISTANCE PAYMENTS BILLINGS AND MORTGAGOR RECERTIFICATION

In connection with the audit tests below, the IPA is not expected to evaluate the classification of mortgagee income in assistance payment computations.

1. On a test basis, verify mathematical accuracy of FHA Forms 93102, Mortgagee Certification and Application for Assistance or Interest Reduction Payments, and FHA Form 93103, Monthly Summary of Assistance Payments Due.

2. On a test basis, obtain individual loan files and:

- a. Determine that the files show that the mortgagee obtained and verified information concerning income, family composition, and occupancy of the property. (HUD Handbook 4191.1, paragraphs 153-156)

- b. Trace the income information used for computing the assistance payment to the information shown in the verification of employment or other supporting documentation as allowed by HUD Handbook 4191.1, paragraph 155.

c. Determine that the recertification was timely completed. (HUD Handbook 4191.1, paragraph 153) If the recertification was not timely completed by the mortgagor, did the mortgagee act to suspend the assistance payments contract? (HUD Handbook 4191.1, paragraph 153c(5))

d. Recompute the assistance payments computed by the mortgagee. Computations should include both Formula I and Formula II computations. (Explanations of computations are described in HUD Handbook 4191.1, paragraph 157)

REVIEW OF MORTGAGE BACKED SECURITIES

(HUD HANDBOOK—GNMA §500.1C)

In his review, the Independent Public Accountant is to:

1. Confirm, on a test basis, mortgages held by custodians.

2. On a test basis, determine that withdrawals of mortgage documents from the custodian are proper.

a. Verify foreclosures and determine proper pass-through payments after HUD has paid claims.

b. Determine proper pass-through payments in the case of mortgage prepayments.

3. Obtain list from GNMA of pools which are in effect for the issuer (mortgagee) and determine that the list agrees with mortgagee's records.

NOTE.—It is anticipated that controls maintained over funds received and disbursed in connection with pooled mortgages and issued securities will be tested during the normal course of the audit.

APPENDIX 4.—GUIDE FOR PREPARATION OF THE OPERATIONS AND STATUS REPORT

The following is a guide for the preparation of the Operations and Status report. Although no specific form is prescribed, it is essential that each of the items listed in this guide be included in the report.

1. Officers and Directors of the company.
a. Names and approximate percentage of their beneficial interests.

b. The extent to which the officers and directors are active in the management of the company.

c. Other business interests or affiliations the principals have in allied fields, especially in residential construction.

2. The names and the experience of executive and management personnel actively engaged in "running" the company and what, if any, financial interest they have in the company.

3. The nature and extent of bank credit.

4. The institutional investors for whom the company originates and/or services loans.

5. Volume of originations and servicing.
a. The number and amount of loans by type (FHA, VA, and conventional) currently serviced by the company.

b. The approximate volume of loans by type (FHA, VA, and conventional) the company originates on an annual basis.

6. Number and location of all branch offices.

APPENDIX 5.—SAMPLE AUDIT REPORT OF XYZ MORTGAGE CORPORATION, DALLAS, TEX. BY C. P. ACCOUNTANT & COMPANY, CERTIFIED PUBLIC ACCOUNTANTS, DALLAS, TEX.

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NOTE.—The financial statements and notes thereto include only those disclosures unique to the mortgage banking industry and do not include all disclosures necessary for a fair presentation in accordance with generally accepted accounting principles.

ACCOUNTANT'S REPORT

TO THE DIRECTOR,

XYZ Mortgage Corporation

GENTLEMEN: We have examined the balance sheet of XYZ Mortgage Corporation as of March 31, 1977, and the related consolidated statement of operations, retained earnings and changes in financial position for the year then ended. Our examination was made in accordance with generally accepted auditing standards and the audit requirements set forth in the Department of Housing and Urban Development Guide for Audits of Nonsupervised Mortgagees and, accordingly, included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the aforementioned financial statements present fairly the financial position of XYZ Mortgage Corporation at March 31, 1977, and the results of its operations and changes in their financial position for the year then ended, in conformity with generally accepted accounting principles applied on a consistent basis.

Our examination was made primarily for the purpose of formulating an opinion on the financial statements taken as a whole. The supplemental schedule of computation of adjusted net worth, although not considered necessary for fair presentation of financial position, is presented for supplementary analysis purposes. The information contained in the schedule of computation of adjusted net worth was subjected to the same auditing procedures applied in our examination of the basic financial statements and is, in our opinion, fairly stated in all material respects in relation to the basic financial statements taken as a whole.

C. P. ACCOUNTANT & COMPANY,
Certified Public Accountants.

June __, 197__.

XYZ MORTGAGE CORP. BALANCE SHEET (Mar. 31, 1977)

ASSETS			
Current assets:			
Cash:			
Corporation funds			\$8,404
FHA/VA escrow funds			6,506
Federal National Mortgage Association (FNMA) custodial funds (contra)			21,191
First savings bank custodial funds (contra)			57,453
First mortgage trust custodial funds (contra)			6,346
Trust insurance company custodial funds (contra)			1,542
North Savings Bank custodial funds (contra)			31,042
			<u>132,481</u>
Receivables:			
Note receivable			1,116
Note receivable from officer			15,000
Interest			2,837
Service fees			943
			<u>19,396</u>
Inventory:			
First mortgage loans			479,367
Less reserve for discounts			21,718
			<u>457,649</u>
Real estate contract receivable			12,000
			<u>469,649</u>
Prepaid items:			
Insurance			365
Other			1,400
			<u>1,765</u>
Total current assets			<u>623,291</u>
Restricted assets:			
5,322 shares FNMA common stock (market value \$75,000 Mar. 31, 1977), at cost			50,334
Investments:			
Real estate held for sale			722,422
Real estate held for sale and occupied by officer			31,600
Participation in construction loan			14,395
Partnership interest in unrelated concern			6,900
			<u>775,317</u>
Total investments			<u>775,317</u>
Fixed assets:			
Furniture	\$7,742	\$2,750	4,992
Automobiles	12,580	5,188	7,392
Total fixed assets	<u>20,322</u>	<u>7,938</u>	<u>12,384</u>
Other assets:			
Equity, officers life insurance			1,234
Total assets			<u>1,462,570</u>
LIABILITIES			
Current liabilities:			
FHA/VA escrow accounts			2,245
FNMA funds held in escrow (contra)			21,191
First Savings Bank funds held in escrow (contra)			57,453
First mortgage trust funds held in escrow (contra)			6,346
Trust insurance company funds held in escrow (contra)			1,542
North Savings Bank funds held in escrow (contra)			31,042
Notes payable, bank, secured by first mortgage loans			2,100
Due to builders			70,788
Accounts payable			3,047
Salaries payable			83,200
Accrued interest			7,298

LIABILITIES—continued

Income taxes payable	130,200
Payroll taxes payable	1,318
Deposits for FHA sec. 235 program	300
Deposits for standby fees	129,025
Contribution payable to employees' profit-sharing trust	25,500
Total current liabilities	572,593
Other liabilities:	
Note payable, bank, secured by real estate held for sale	364,841
Advances by stockholder	58,115
Total other liabilities	422,956
Total liabilities	995,551
STOCKHOLDERS' EQUITY	
Capital stock:	
Common, par value \$10, authorized 5,000 shares, all issued and outstanding	50,000
Preferred, par value \$10, authorized 5,000 shares, all issued and outstanding	50,000
Total capital stock outstanding	100,000
Retained earnings	367,019
Total stockholders' equity	467,019
Total liabilities and stockholders' equity	1,462,570

NOTE.—See notes to the financial statements.

XYZ MORTGAGE CORP. STATEMENT OF OPERATIONS AND RETAINED EARNINGS

(Year Ended Mar. 31, 1977)

Income:	
Origination fees (commercial \$437,541; residential \$11,399)	\$548,940
Service fees	77,706
Interest income	55,040
Appraisal fees	34,198
Gain on sales of mortgages	10,800
Commitment fees	5,059
FNMA dividends	3,771
Assumption fees	1,980
Miscellaneous	1,974
Total income	739,648
Expenses:	
Advertising	450
Professional	3,800
Automobile	5,200
Brokerage fees	10,650
Commissions	28,000
Rent	8,587
Salaries	183,350
Taxes and licenses	5,079
Telephone and telegraph	9,388
Travel	2,291
Total expenses	328,560
Net profit before income taxes	411,088
Provision for income taxes	197,400
Net income	213,688
Retained earnings, Apr. 1, 1977	153,331
Retained earnings, Mar. 31, 1977	367,019

NOTE.—See notes to the financial statements.

STATEMENT OF CHANGES IN FINANCIAL POSITION YEAR ENDED MARCH 31, 1977

Funds provided:		
From operations		
Net income	\$213,688	
Item not affecting working capital—Depreciation	3,408	
Working capital provided from operations	217,096	
Advance by stockholder	12,000	
Reduction in participation in construction loan	5,230	
Total working capital provided	234,326	
Funds applied:		
Purchase of real estate held for sale	154,849	
Purchase of furniture	2,257	
Reduction of notes payable, bank	2,100	
Total working capital applied	159,206	
Increase in working capital	75,120	
Changes in Elements of Working Capital		
Increase (decrease) in current assets		
Cash	47,692	
Cash	47,692	
Marketable securities	1,574	
Receivables	(22,109)	
Inventory	38,984	
Prepaid items	(137)	
(Increase) decrease in current liabilities		
FHA/VA Escrow Accounts	(2,112)	
FNMA Funds Held in Escrow (contra)	(6,210)	
Accounts Payable	(1,099)	
Deposits for FHA Section 235 Program	4,117	
Increase in Working Capital	75,120	

See notes to the financial statements.

NOTES TO THE FINANCIAL STATEMENTS

(All notes not illustrated)

FHA/VA Escrow Funds	\$6,503
FHA/VA Escrow Accounts	2,245

These funds are segregated from corporation funds in a custodial account appropriately captioned. Monthly payments on FHA/VA guaranteed obligations other than loans serviced for FNMA are deposited to this account as received. Principal, interest, and fees included in such payment are withdrawn periodically, but not within 30 days from date of deposit.

These escrow funds have been examined and are in agreement with the bank account balance, which was confirmed direct to us by the depository.

A reconciliation of account follows:

Cash, FHA/VA Escrow Funds	\$6,503
Principal, Interest, and Fees Deposited to Custodial Account, not Withdrawn at March 31, 1977	4,258
FHA/VA Escrow Accounts	2,245
FNMA Custodial Funds	21,191
FNMA Funds Held in Escrow	21,191

The corporation services loans which it has originated and sold to FNMA. Monthly payments on these loans are deposited to a custodial account as received and are remitted periodically to FNMA, as required by that agency. These funds are segregated from corporation funds in a custodial account appropriately captioned.

The custodial account and the corresponding liability do not appear in the general ledger of the corporation. An accounting is maintained in a memorandum journal, which is reconciled monthly with the bank statement.

These amounts appear in the Balance Sheet for report purposes as contra accounts.

First Savings Bank Custodial Funds	\$57,453
First Savings Bank Funds Held in Escrow	57,453
First Mortgage Trust Custodial Funds	6,346
First Mortgage Trust Funds Held in Escrow	6,346
Trust Insurance Company Custodial Funds	1,542
Trust Insurance Company Funds Held in Escrow	1,542
North Savings Bank Custodial Funds	31,042
North Savings Bank Funds Held in Escrow	31,042

The corporation services loans for the above entities. Monthly payments on the loans for each entity are deposited to custodial accounts individually maintained for each entity as received and are remitted to the entities periodically. The funds are segregated from corporation funds in appropriately captioned custodial accounts.

The custodial accounts and the corresponding liabilities do not appear in the general ledger of the corporation. Accounting is maintained in memorandum journals which are reconciled monthly with the bank statements.

These amounts appear in the Balance Sheet for report purposes as contra accounts.

Note Receivable, \$1,116

This amount represents the outstanding balance on one note of XYZ Mortgage Corporation Employees' Profit Sharing Trust.

Note Receivable from Officer, \$15,000

This amount represents the outstanding balance on a note receivable from B. E. Mark, President of the corporation.

First Mortgage Loans, \$479,367

This amount represents 21 loans secured by real estate mortgages. These are shown at lower of cost or market.

Reserve for Discounts represents the amount of discounts collected from sellers at loan closing. Under the terms of agreements with contractors, any differences between discounts collected and discounts charged by buyers (FNMA or others) will be borne by the contractors.

These notes were pledged to secure Notes Payable, Bank.

Real Estate Contract Receivable, \$12,000

This amount represents a real estate contract receivable from a corporate stockholder.

Investments—Real Estate Held for Sale, \$722,422

The corporation has purchased in its name two adjacent tracts of land in Fort Worth, Texas. The purchase was made as an accommodation to a group of investors who anticipate purchase of the land from the corporation for purposes of development. The land is pledged as collateral security for a bank loan in the amount of \$364,841.

Investments—Real Estate Held for Sale and Occupied by Officers, \$31,600

This amount represents the cost of a dwelling ultimately intended for resale but currently occupied by an officer of the corporation. Rent is not paid by the officer to the corporation.

Investments—Participation in Construction Loan, \$14,395

The corporation is a party to a participation agreement wherein its interest is 5 percent of a construction loan on a residential real estate development. The amount represents the corporation's interest in interim construction advances to date. Maximum participation is \$76,100.

Investments—Partnership Interest in Unrelated Concern, \$6,900

The corporation is a limited partner in the firm of A, B, and C Associates, Farmers Branch, Texas. The corporation's initial capital contribution is to be \$23,000 and this amount represents installment payments to date toward accumulation of the capital requirement.

Computation of adjusted net worth to determine compliance with FHA net worth requirements (Mar. 31, 1977)

Net worth (stockholders' equity) per balance sheet	\$467,019
Less: Assets unacceptable:	
Note receivable from officer	15,000
Real estate contract receivable—contract to purchase a parcel of land from a corporate stockholder	12,000
Other prepaid items	1,400
Real estate held for sale and occupied by officer—property has been occupied for 11 months and is provided rent free	31,600
Total assets unacceptable	60,000
Adjusted net worth (stockholders' equity) for FHA requirement purposes	407,019

COMMENTS ON COMPLIANCE AND INTERNAL CONTROL

We have examined the financial statements of XYZ Mortgage Corporation for the year ended March 31, 1977, and have issued our report thereon dated June 1, 1977. Our examination also included a review of these internal accounting control and administrative control procedures of XYZ Mortgage Corporation that we considered necessary to determine compliance with regulations, policies, and procedures prescribed by HUD, insofar as such compliance review was necessary under the provisions set forth in Appendix 3 of the HUD Audit Guide for Audits of Nonsupervised Mortgagees, dated June 1976 ("HUD Audit Guide").

The objective of internal accounting control is to provide reasonable, but not absolute, assurance as to the safeguarding of assets against loss from unauthorized use of disposition, and the reliability of financial records for preparing financial statements and maintaining accountability for assets. We understand that the objective of those administrative control procedures, compre-

hended in the HUD Audit Guide is to provide similar assurance as to compliance with its related requirements. The concept of reasonable assurance recognizes that the cost of a system of internal control should not exceed the benefits derived and also recognizes that the evaluation of these factors necessarily requires estimates and judgments by management.

There are inherent limitations that should be recognized in considering the potential effectiveness of any system of internal control. In the performance of most control procedures, errors can result from misunderstanding of instructions, mistakes of judgment, carelessness or other personal factors. Control procedures whose effectiveness depends upon segregation of duties can be circumvented by collusion. Similarly, control procedures can be circumvented intentionally by management with respect to the estimates and judgments required in the preparation of financial statements.

Further, projection of any evaluation of internal control to future periods is subject to the risk that the procedures may become inadequate because of changes in conditions, and that the degree of compliance with the procedures may deteriorate.

We understand that performance of the audit tests and procedures referred to in the preceding paragraphs is considered by HUD to be adequate to determine substantial compliance with applicable HUD requirements. Based on this understanding and on our review, we believe the XYZ Mortgage Corporation's performance and procedures were adequate for HUD's purposes, except for the conditions described below.

This report is intended for use in connection with HUD program activities and should not be used for any other purpose.

FINDINGS, RECOMMENDATIONS, AND REPLIES**FINDING 1—LOAN ORIGINATIONS AND MORTGAGOR APPROVAL**

We reviewed documentation pertaining to the origination and requests for mortgage approval on a select number of the 173 loans originated during the mortgagee's fiscal year. Deficiencies were noted in ten instances. Examples are as follows:

a. *FHA Insured Case No. 491:123456-203.* We found no indications that a reported \$2,500 savings account at First National Bank was verified although included on the request for mortgage approval (FHA Form No. 2900). We noted that the mortgagee had included this information on his credit application and that the credit report showed a "low three" balance. The mortgagee should have verified its existence with the depository.

b. *FHA Insured Case No. 491:654321-221.* Information reported on the request for mortgage approval in this case showed that the mortgagee had \$1,100 on deposit in a savings account at North Savings Bank. The verification of deposit returned from the bank however, showed that the mortgagee had only \$712 on deposit in the savings account. Representatives of the mortgagee should have reconciled this difference.

c. *FHA Insured Case No. 491:567891-221.* Information reported in requesting mortgage approval in this case showed that the mortgagee paid \$310 a month on outstanding liabilities. Unreported on the request for mortgage approval was an outstanding liability of \$2,300 on which monthly installments of \$90 are made which was shown in the credit report obtained on the mortgagee. We also noted this amount was not acknowledged by the mortgagee on his credit application. The loan processor handling this loan should have noted and reconciled this deficiency.

Recommendation

In order to strengthen its loan processing activities, the mortgagee should consider adoption and implementation of a review process or a checklist system whereby information included on the request for mortgage approval is appropriately verified and correct.

Reply

Representatives of the corporation stated that they felt the deficiencies had resulted from oversight on the part of loan processors and agreed that a review system, including a checklist system of reviewing requests for mortgage approval, would be desirable. With respect to item a., they stated the loan processor must have overlooked verifying the deposit and opined she may have relied on the information in the credit report as verification. The loan processor who handled the case discussed in item b. explained she had prepared the request for mortgage approval before she received the confirmed copy of the deposit verification. She further explained the mortgagee had called and told her he intended to use "about \$400" to purchase some furniture. She had given a verbal O.K. on this but had neglected to alter the already prepared request for mortgage approval. With respect to item c., we were told this was an apparent oversight. The mortgagee explained that this loan was current and had never been delinquent and therefore felt that no harm had been caused by the oversight.

FINDING 2—MORTGAGE SERVICING AND COLLECTION ACTIVITY

We found that payments representing less than total amounts due or short only late charges were often returned to mortgagees without evaluation of individual circumstances by servicing personnel or without consideration to accepting the payment and collecting the late charge(s) separately. HUD instructions provide for a human evaluation of individual cases prior to the return of partial payments and suggest the acceptance of payments short only late charges and the utilization of other means to collect late charges.

The rejection and return of partial payments or payments short only late charges apparently resulted because personnel responsible for recording collections was not familiar with the company's collection procedures. In this regard, such payments were rejected following recordation without referral of the payments and cases to appropriate loan servicing personnel for consideration.

Recommendation

We recommend that the mortgagee instruct those personnel receiving payments that partial payments and payments short only late charges should be referred to mortgage servicing personnel after payment is recorded.

Reply

Mortgagee personnel stated they were unaware that payments were being returned without servicing personnel reviews. During the course of the audit, officials issued written instructions to personnel receiving mortgage payments that all partial payments or payments short only late charges were to be referred to the mortgage servicing section following recordation.

FINDING 3—SECTION 235 MORTGAGES

During our review of Section 235 cases, we found that 14 mortgagees were sent recertification forms after their anniversary dates and four cases where the forms were not mailed in time to assure their return within

30 days after the mortgagor's anniversary date.

We noted that the mortgagee did not utilize a tickler system or any other operative system to currently identify those Section 235 loans which should be recertified.

Recommendation

In order to promptly identify and take action to recertify Section 235 borrowers for continued assistance, the mortgagee should consider adopting a tickler system or other procedure which will readily identify, by month, those cases due for recertification.

Reply

Mortgagee representatives stated the above problem had arisen apparently because of the retirement of the clerk responsible for obtaining recertifications. They advised that

Operations and status report—officers and directors of the company

Name	Position	Director (Yes/No)
James L. Jones.....	Chairman of the board and chief executive officer.....	Yes.
B. E. Mark.....	President.....	Yes.
C. G. Martin.....	Vice president, secretary-treasurer.....	No.
Don Smith.....	Vice president, assistant secretary-treasurer.....	No.
James Ell.....	Vice president.....	No.
Betty Jones.....	Assistant secretary.....	No.
Jack Tracy.....	Loan-closing officer.....	No.

BENEFICIAL INTERESTS

a. Stockholders of the company are as follows:

	Approximate participation (percent)
B. E. Mark.....	50
James L. Jones.....	30
C. G. Martin.....	20

b. Mr. B. E. Mark is a 50 percent owner of Mark Building Company, Dallas, Texas, and Messrs. James L. Jones and C. G. Martin own 100 percent of South, Inc., Dallas, Texas, which company owns the other 50 percent of Mark Building Company. Mark Building Company is primarily engaged in residential construction. South, Inc., is engaged in real estate development and sales, development and operation of shopping centers, commercial rentals, and commercial and large scale residential construction and development.

MANAGEMENT

Mr. B. E. Mark, President, is actively engaged in running the company. Mr. Mark has had approximately 40 years experience in the home construction and financing field.

Mr. James L. Jones and Mr. Mark are responsible for all policy decisions. Mr. Jones has been engaged in the construction, devel-

a system would be devised and implemented to ensure prompt recertification of Section 235 mortgagors in the future.

FINDING 4—LOAN SERVICING AND COLLECTION ACTIVITY

We reviewed the mortgagee's procedures for servicing delinquent and defaulted loans and for collecting amounts owing. The following deficiency was noted:

a. The procedures provided for personal contacts with mortgagors only after the 75th day of delinquency. HUD instructions (Handbook 4191.1, paragraph 107c and HM Mortgage Letter 75-10) provide that such personal contacts should be made not later than the second month of delinquency. During the course of our review, the mortgagee revised its servicing policy to provide for personal contacts with mortgagors no later than the 45th day of delinquency.

opment, and related financing field for some 17 years.

BANK CREDIT

The company has a \$300,000 line of credit for its warehousing operations with First Savings Bank, Dallas, and a similar line of credit with National Bank and Trust Co., Dallas, in the amount of \$150,000. Any funds advanced against such credits are secured by FHA or VA approved mortgages and are further secured by the personal guaranties of Messrs. James L. Jones and C. G. Martin.

INSTITUTIONAL INVESTORS

The company originates and services loans for FNMA and GNMA.

VOLUME OF ORIGINATIONS AND SERVICING

The company now services 395 loans amounting to approximately \$7,376,000.

TYPE OF BUSINESS

The relative participation of the company in originating various types of loans is approximately as follows:

FHA: 81 percent.
VA: 19 percent.

BRANCH OPERATIONS

The company operates one branch office which is located in Fort Worth, Texas.

APPENDIX 6.—REGIONAL INSPECTORS GENERAL FOR AUDIT

Region I (Boston):

Regional Inspector General for Audit, Department of Housing and Urban Development, 510 B, John F. Kennedy Federal Building, Boston, Massachusetts 02203. (617) 223-4144.

Region II (New York):

Regional Inspector General for Audit, Department of Housing and Urban Development, 26 Federal Plaza, Room 3214, New York, New York 10007. (212) 264-4174.

Region III (Philadelphia):

Regional Inspector General for Audit, Department of Housing and Urban Development, Curtis Building, 6th and Walnut Streets, Philadelphia, Pennsylvania 19106. (215) 597-2462.

Jurisdiction

States of: Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island and Vermont.

States of: New York and New Jersey; and Puerto Rico and the Virgin Islands.

States of: Delaware, Maryland, Pennsylvania, Virginia and West Virginia and the District of Columbia.

APPENDIX 6.—REGIONAL INSPECTORS GENERAL FOR AUDIT—Continued

Region IV (Atlanta):

Regional Inspector General for Audit, Department of Housing and Urban Development, 1375 Peachtree Street, NE, Room 686, Atlanta, Georgia 30303. (404) 526-5441.

Region V (Chicago):

Regional Inspector General for Audit, Department of Housing and Urban Development, 300 South Wacker Drive, Chicago, Illinois 60606. (312) 353-7932.

Region IV (Dallas):

Regional Inspector General for Audit, Department of Housing and Urban Development, 2001 Bryan Tower, 4th Floor, Dallas, Texas 75201. (214) 749-7731.

Region VII (Kansas City):

Regional Inspector General for Audit, Department of Housing and Urban Development, Two Gateway Center, 4th and State Streets, Kansas City, Kansas 66101. (816) 374-4701.

Region VIII (Denver):

Regional Inspector General for Audit, Department of Housing and Urban Development, 1405 Curtis Street, Executive Tower, 25th Floor, Denver, Colorado 80202. (303) 327-4365.

Region IX (San Francisco):

Regional Inspector General for Audit, Department of Housing and Urban Development, 450 Golden Gate Avenue, Post Office Box 36078, San Francisco, California 94102. (415) 556-6895.

Region X (Seattle):

Regional Inspector General for Audit, Department of Housing and Urban Development, 429 Arcade Plaza Building, 1321 Second Avenue, Seattle, Washington, 98101. (206) 399-0270.

States of: Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina and Tennessee.

States of: Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin.

States of: Arkansas, Louisiana, New Mexico, Oklahoma and Texas.

States of: Iowa, Kansas, Missouri and Nebraska.

States of: Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming.

States of: Arizona, California, Hawaii and Nevada; and Guam and American Samoa.

States of: Alaska, Idaho, Oregon and Washington.

[FR Doc.76-32030 Filed 11-1-76;8:45 am]

DEPARTMENT OF
TRANSPORTATIONFederal Highway Administration
HIGHWAY SAFETY MANAGEMENT
PROGRAM STUDY

Public Meeting

Notice is given that a meeting of the Special Liaison Panel for the Federal Highway Administration's "Highway Safety Management Program Study" pursuant to 23 U.S.C. 307 will be held on Thursday, November 18 (9:30 a.m. to 12:00 a.m.) in room 4234, Nassif Building, 7th and D Streets, SW., Washington, D.C.

This Special Liaison Panel has been established by the Federal Highway Administration's Office of Research for the purpose of providing a means of disseminating to interested parties information regarding the progress of research being conducted under Contract No. DOT-FH-11-8875, "Highway Safety Management Program Study." The sole purpose of the panel's meeting will be to receive a briefing by representatives of the contractor regarding the results of their research to date.

This briefing is open to the public. Persons wishing to attend this briefing session should notify the Contract Manager, Mr. Ross Netherton, Highway Safety Management Program Study, Office of Research, HRS-41, Federal Highway Administration, Department of Transportation, Washington, D.C. 20590, telephone (202) 426-9710, at least 3 days in advance of the meeting in order to assure that sufficient space is available. Further information concerning this

briefing may be obtained from the Contract Manager noted above.

Issued on: October 27, 1976.

J. R. COUPAL, Jr.,
Deputy Administrator.

[FR Doc.76-32086 Filed 11-1-76;8:45 am]

Federal Railroad Administration

[FRA Docket No. HS-4, Notice No. 2]

HOURS OF SERVICE ACT
INTERPRETATIONS

Public Conference; Extension of Time for Comment

On September 22, 1976, the Federal Railroad Administration (FRA) issued a notice of agency interpretations concerning the Hours of Service Act, 49 U.S.C. 61-64b, as amended by Public Law 94-348 (41 FR 42692; September 28, 1976). The notice set forth the text of a proposed appendix to the current Hours of Service regulations (49 CFR Part 228) and requested public comment on "whether the proposed interpretations represent a realistic application of the statutory language to actual conditions in the railroad industry." On October 15, 1976, the Association of American Railroads petitioned FRA for an extension of time within which to comment and for a public hearing.

Because of the wide-ranging effect of the recent amendments and in light of the fact that the original comment period was shorter than is customary, FRA hereby extends the comment period to the close of business, Monday, November 29, 1976. FRA solicits written comments, which should refer to Docket No.

HS-4 and should be submitted in triplicate to the Docket Clerk, Office of Chief Counsel (RCC-1), Federal Railroad Administration, 400 7th Street, SW., Washington, D.C. 20590.

Because of the degree of interest associated with the development of this statement of agency policy and interpretation, FRA will hold a public conference on the docket at 10:00 a.m., Friday, November 19, 1976, in conference facilities on the 17th floor, 300 S. Wacker Drive, Chicago, Illinois. The conference will be convened by the Associate Administrator for Safety and Chief Counsel for the purpose of receiving oral comments on this matter. All interested persons are invited to attend and participate.

The conference will be informal and nonadversary in nature; the duration of oral presentations may be limited, if necessary to permit maximum participation. To the extent possible, opportunity will be provided for statements responsive to the comments of other participants. There will be no cross-examination of participants. However, if time permits, after all participants have had an opportunity to speak, a participant may consent to respond to questions from another participant.

A transcript of this conference will be prepared and placed in the public docket. Any participant intending to deliver a prepared statement is encouraged to make five copies of the statement available to the conveners before the start of the conference. Additional procedures for the conduct of the conference may be announced at the conference.

Issued in Washington, D.C. on October 27, 1976.

DONALD W. BENNETT,
Associate Administrator
for Safety.

[FR Doc.76-32031 Filed 11-1-76;8:45 am]

MINORITY BUSINESS RESOURCE CENTER
ADVISORY COMMITTEE

Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Minority Business Resource Center Advisory Committee to be held November 17, 1976, at 10:00 a.m. until 5:00 p.m. at the Department of Transportation, 400 7th Street, S.W., Room 2232, Washington, D.C. 20590. The agenda for this meeting is as follows:

- Minority Business Resource Center organization and structure.
- Minority Business Resource Center Financial Assistance proposal.
- Proposed regulations on non-discrimination for federally assisted railroad programs.

Attendance is open to the interested public but limited to the space available. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to

attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from Mr. Kenneth E. Bolton, Executive Director, Minority Business Resource Center, Federal Railroad Administration, 400 7th Street, S.W., Washington, D.C. 20590, Telephone: 202-426-2852. Any member of the public may present a written statement to the Committee at any time.

Issued in Washington, D.C., on October 29, 1976.

KENNETH E. BOLTON,
Executive Secretary.

[FR Doc.76-32148 Filed 11-1-76; 8:45 am]

Office of the Secretary
FINANCING OF AIRCRAFT NOISE
REDUCTION REQUIREMENTS
Public Hearing

The purpose of this notice is to announce a public hearing in Washington, D.C. on December 1, 1976, on the financing of aircraft noise reduction requirements.

On October 21, 1976 the President announced that he had accepted the proposal of the Secretary of Transportation and the Federal Aviation Administrator to require that subsonic turbojet aircraft meet existing Federal Aviation Administration noise emission standards (Part 36) presently applicable only to newly manufactured aircraft within eight years. Accordingly, the Federal Aviation Administration will promulgate an appropriate amendment to Part 36, 14 CFR. In order to meet the standards, existing jet aircraft must either be replaced by newer, quieter, and more efficient models, or modified—either by replacing the engines or by fitting them with sound absorptive material ("retrofitting"). Because of the substantial questions about the costs aircraft operators may face in complying with these new requirements, the President also directed me, as Secretary of Transportation, to conduct a hearing to consider whether further financing arrangements may be necessary to ensure that all U.S. air carriers can meet the standards on time.

That hearing will be held on Wednesday, December 1, 1976, at the Departmental Auditorium, located between the Interstate Commerce Commission and the Customs Service on Constitution Avenue at Thirteenth Street, N.W., Washington, D.C. Public officials and representatives of consumer associations, other public interest groups, air carriers, aerospace manufacturers, financial institutions, airport operators, and other affected organizations are invited to present their views to me on the following issues:

1. The need for special financing provisions to enable aircraft operators to meet the eight year timetable.
2. The type of provisions, if any, that should be established, and how they can be designed to take into account the importance of limiting any involvement of the federal government in capital invest-

ment decisions that should be made in the private sector.

3. The extent of noise reduction benefit achievable from a retrofit program compared to the noise reduction achievable from the replacement of the older four-engine jet aircraft that do not meet federal noise standards either by currently available aircraft or by more advanced technologies currently being designed.

4. The nature and extent of additional benefits that would be realized through a replacement program, including increased employment opportunities in the aerospace and related industries, energy conservation resulting from improved fuel efficiency, aircraft technological advancement, and improved opportunities for American aerospace manufacturers in world markets.

A more complete statement of issues to be addressed by witnesses at the hearing will be made available on November 16 and provided to all prospective witnesses.

The hearing will be conducted on the following schedule:

10:00 a.m.-11:30 a.m.	Public officials.
11:30 a.m.-12 noon	Consumer and
and	public interest
2:00 p.m.-2:30 p.m.	groups.
2:30 p.m.-4:00 p.m.	Other interested parties.

Participants will be permitted a maximum of 10 minutes for each presentation, plus reasonable time to respond to any questions I may ask concerning their presentation or the issues at hand. Those of the same point of view are urged to combine their presentations. Written copies of presentations will be helpful, but are not required.

Any public official or representative of a public interest or industry group desiring to participate at the hearing should write to: The Secretary of Transportation (Noise Financing Hearing), Washington, D.C. 20590 (telephone: 202-426-4534) or hand deliver to Room 10203, 400 Seventh Street, S.W., Washington, D.C. to be received not later than November 15, giving the following information:

1. Name.
2. Address.
3. Phone number during normal working hours.
4. Capacity in which presentation will be made (i.e., public official, or public interest or industry group representative, with name of group represented).
5. Issues to be addressed.
6. Time (maximum of 10 minutes) desired for presentation.

Additionally, written presentations by any interested persons, including those who may not have sufficient time to express their full views at the hearing, may be submitted directly to me (address: The Secretary of Transportation, Washington, D.C. 20590, and indicate "Noise Financing" on envelope), to be received not later than December 16, 1976).

A schedule for the hearing will be prepared listing the participants in the order in which their presentations will be

made. If more requests to testify are made than the time allotted will permit, we will attempt to obtain prior agreement on time allocations, or will allot time through the drawing of names by lot. The public and the press are invited to the hearing, which will be transcribed electronically. The transcription and all written submissions will be placed in a public docket and will become a part of the record in this proceeding.

The holding of this hearing is not a precedent for the way in which similar matters will be handled in the future.

Issued in Washington, D.C., October 28, 1976.

WILLIAM T. COLEMAN, JR.,
Secretary of Transportation.

[FR Doc.76-32149 Filed 11-1-76; 8:45 am]

ADVISORY COUNCIL ON
HISTORIC PRESERVATION
EXECUTED MEMORANDUM OF
AGREEMENT

September, 1976

Pursuant to § 800.6(a) of the Advisory Council's "Procedures for the Protection of Historic and Cultural Properties" (36 CFR Part 800), notice is hereby given that the following Memoranda of Agreement were executed during the month of September 1976. The Memoranda of Agreement were executed in fulfillment of Federal agencies' responsibilities for protection of properties on or eligible for inclusion in the National Register of Historic Places in accordance with Section 106 of the National Historic Preservation Act of 1966 and Executive Order 11593, May 13, 1971.

Tuskegee Institute National Historic Site, Macon County, Alabama, affected by archeological investigations undertaken by the Department of Interior, National Park Service (9-1-76).

Mingus Mill Complex, Great Smoky Mountains, North Carolina affected by rehabilitation and preservation undertaken by the Department of Interior, National Park Service (9-1-76).

Drexel University, Philadelphia, Pennsylvania, affected by the University City Redevelopment Program undertaken by the Department of Housing and Urban Development (9-1-76).

San Juan National Historic Site, San Juan, Puerto Rico, affected by rehabilitation of two unoccupied structures at Fort San Cristobal undertaken by the Department of Interior, National Park Service (9-1-76).

Wood County Courthouse and Jail, Parkersburg, West Virginia, affected by Parkersburg Urban Renewal Project undertaken by the Department of Housing and Urban Development (9-1-76).

Ft. Donelson National Historic Site, Stewart County, Tennessee, affected by the restoration and adaptive use of the Dover Hotel undertaken by the Department of Interior, National Park Service (9-4-76).

Dry Creek-Warm Springs Valley Archeological District, Sonoma County, California, affected by the Warm Springs Dam-Lake Sonoma Project undertaken by the Department of the Army, Corps of Engineers (9-7-76).

Oregon Trail Historic District, Power County, Idaho, affected by Projects I-15W-5(10) 117, I-15W-4(17)108, and I-15W-4(21)

97 undertaken by the Department of Transportation, Federal Highway Administration (9-10-76).

Bandelier National Monument, Albuquerque, New Mexico, affected by the Cochiti Lake Project undertaken by the Department of the Army, Corps of Engineers (9-15-76).

Franklin Court, Independence National Historical Park, Philadelphia, Pennsylvania affected by the Takenaka Aqua-Reactive Soil Stabilization System (TACSS) test undertaken by the Department of Interior, National Park Service (9-15-76).

Syracuse Historic District, Syracuse, New York affected by the 1976-77 Community Development Program undertaken by the City of Syracuse, Department of Community Development (9-26-76).

San Xavier Del Bac, Pima County, Arizona affected by the construction of the San Xavier Bicentennial Plaza Project undertaken by the Department of Interior, Bureau of Indian Affairs (9-27-76).

Archaeological Site No. AR-4, Rio Arriba County, New Mexico affected by the development of recreation facilities at the Cerro Boat Launch Area, Abiquiu Dam and Reservoir undertaken by the Department of the Army, Corps of Engineers (9-28-76).

New River Inn, Broward County, Florida, affected by plans for a new double track bascule bridge over the New River undertaken by the Department of Transportation, Coast Guard (9-29-76).

Washington/South Main Street Historic District, Norwalk, Connecticut, affected by the rehabilitation and/or demolition of six structures undertaken by the City of Norwalk (9-30-76).

The Memoranda are available for inspection at the Advisory Council offices, Suites 430 and 1030, 1522 K Street, N.W., Washington, D.C. 20005. Further information is available from the Director, Office of Review and Compliance, Advisory Council on Historic Preservation, at the above address.

ROBERT R. GARVEY, Jr.,
Executive Director.

[FR Doc.76-31885 Filed 11-1-76; 8:45 am]

CIVIL AERONAUTICS BOARD

[Docket Nos. 25546, 28266; Order 76-10-124]

MACKEY INTERNATIONAL, INC.

Order Regarding Applications for a Certificate of Public Convenience and Necessity to Engage in Foreign Air Transportation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 27th day of October 1976.

Mackey International, Inc. (Mackey), a Part 298 commuter air carrier, has filed applications in Dockets 25546 and 28266¹ for a certificate of public convenience and necessity to engage in foreign air transportation of persons and property between the terminal point Tampa-St. Petersburg, Florida, the intermediate points Palm Beach-West Palm Beach, Fort Lauderdale, and Miami, Florida, points in the Bahamas Islands, and

points in the Turks and Caicos Islands, B.W.I.² The requested authority would overlap Mackey's existing commuter operations, with the addition of Tampa-St. Petersburg.³ Mackey requests that the proposed authority be subject to a restriction precluding nonstop service between Miami, on the one hand, and Nassau or Freeport, on the other, and that such authority be issued to it for a term of three years, or for such other period as the Board may deem appropriate. The applicant indicates that it is not requesting certificate authority to carry mail.⁴

On May 13, 1976, Mackey filed a motion requesting the issuance of an order to show cause why Mackey's applications in these two dockets should not be granted. In support of that motion, Mackey states, *inter alia*, that: as no mail authority is requested, no subsidy issues are involved; the authority requested is within the scope of Mackey's existing exemption authority and corresponds to Mackey's actual service with large aircraft between South Florida and designated points in the Bahamas and Turks and Caicos Islands, a service which Mackey has been continuously providing for five years; show cause procedures

¹ Mackey's original application in Docket 25546 included a request for certificate authority to serve Havana, Cuba; However, Mackey requested dismissal of Havana from its application in its reply to the answers of various carriers to Mackey's motion for hearing in this docket. See Order 73-9-105, September 28, 1973.

² Mackey currently has exemption authority to operate aircraft with a maximum seating capacity of 90 in scheduled foreign air transportation between West Palm Beach and three points in the Bahamas; and between Ft. Lauderdale and Miami, on the one hand, and seven points in the Bahamas, and points in the Turks and Caicos Islands, on the other hand; the foregoing subject to a cargo limitation. See Orders 75-1-1 and 76-5-6, January 2, 1975, and May 5, 1976, respectively. Mackey also has exemption authority to operate 90-seat aircraft in charter foreign air transportation between points in Florida and points in the Bahamas, except between Miami and Freeport, subject to a cargo limitation. See Order 75-7-1, July 1, 1975. Mackey has exemption authority to operate 44-seat aircraft in scheduled service between West Palm Beach, Fort Lauderdale, and Miami, on the one hand, and 14 points in the Bahamas, on the other hand. See Orders 75-1-1 and 75-6-79, January 2, and June 17, 1975, respectively. Mackey also has exemption authority to operate 44-seat aircraft in scheduled service between Fort Lauderdale and West Palm Beach, on the one hand, and Freeport and Nassau, on the other, and in charter air transportation between points in Florida and points in the Bahamas. See Order 75-1-1, January 2, 1975.

³ Mackey currently holds exemption authority to carry mail between Miami and Grand Turk Island pursuant to Order 76-4-73, April 15, 1976. To the extent that the wording of that exemption authority may have to be revised to reflect the applicant's new status as a certificated carrier, Mackey requests such revision.

are appropriate in that Mackey is the only carrier providing service in the great majority of its markets;⁵ almost all of the markets are small and face the dismal prospect that they will never be reached for hearing; no other carrier is applying for a certificate to serve any of the markets; and grant of the requested certificate will not materially affect any other carrier;⁶ Mackey has been in existence since 1968 and is a thoroughly experienced and viable operator of large aircraft; Mackey owns seven Convair 440's and four DC-6's; from the inception of Mackey's service in 1968, its traffic has grown rapidly; if certificated, Mackey plans to operate a fleet of DC-6's and Convair 440's in 1977 and over the longer term, is interested in acquiring a few small, used jet aircraft with about 100 seats in 1978 and beyond; with the requested certificate authority, Mackey will operate basically the same schedules which it operates today, but have the flexibility to upgrade and increase the capacity of its aircraft as its traffic develops; Mackey's top management is the same management which conducted the business of the former Mackey Airlines, a certificated carrier until that company merged with Eastern in early 1967;⁷ the requested certificate will improve Mackey's ability to finance its operations and provide the company with the greater economic stability of a certificated carrier; and, as Mackey is essentially proposing a continuation of air service which already exists, certification would not be a major federal action significantly affecting the quality of the environment.

On May 24, 1976, Eastern Air Lines filed an answer to Mackey's motion for an order to show cause stating, *inter alia*, that: it objects to the grant of certificate authority to Mackey to provide nonstop service between Miami or Fort Lauderdale, on the one hand, and Nassau or Freeport, on the other hand, and to the issuance of a certificate that would encompass the ability to operate charters with large aircraft above the limits permitted by Part 298 in the Miami/Fort Lauderdale-Nassau/Freeport markets; Eastern now provides service from Miami to both Nassau and Freeport and from Fort Lauderdale to Nassau; Eastern's service from either airport in South Florida is designed to serve the entire Miami/Fort Lauderdale metropolitan area; service by Mackey would cause unwarranted diversion from Eastern; and, at minimum, such authority should not be granted without a hearing.

Replies to Eastern's answer have been filed by Mackey and the Broward County Board of County Commissioners.⁸ Broward County favors the issuance of a show cause order and states, *inter alia*, that

⁵ Mackey provides the only direct air service in 18 of the 22 markets involved herein.

⁶ In this connection, Mackey cites Order 76-3-71, March 11, 1976.

⁷ See 45 C.A.B. 728.

¹ May 16, 1973, and September 5, 1975, respectively.

Eastern is the only certificated carrier authorized to operate from Fort Lauderdale to Nassau or Freeport, and Eastern currently operates only one daily round trip to Nassau, and no service to Freeport. Mackey states, *inter alia*, that it opposes the operating restrictions proposed by Eastern in two Fort Lauderdale scheduled service markets and in four charter markets, and requests the Board to employ show cause procedures with regard to the uncontested issues and provide for a hearing limited to the few particular issues contested by Eastern.

Upon consideration of the pleadings and all the relevant facts, we have decided to deny the motion for an order to show cause and to set Mackey's application for hearing. Section 401(d) of the Act specifies that, before issuing a certificate, the Board must find that the applicant is fit, willing, and able and that the transportation proposed is required by the public convenience and necessity. The Board has, on occasion, modified the certificates of established carriers through show cause procedures, an action involving some of the same general issues as before us in this case. However, the Board has not found show cause procedures appropriate when primary issues of fact or policy remain in dispute.

Mackey has, in support of its motion, included a substantial amount of factual material ordinarily required for the development of an adequate record upon which to base the required section 401 (d) findings. In many respects, Mackey has indeed demonstrated *prima facie* that it is a fit, willing, and able applicant. Moreover, we consider that Mackey's services are required by the public convenience and necessity as demonstrated, *prima facie*, by the fact that Mackey presently provides the only direct service in the majority of the markets involved, and has operated most of the routes in question for a long period of time, providing a needed service to substantial numbers of travelers. Finally, the only objection to Mackey's motion is that of Eastern whose concern is limited to only a few issues.

The Board does not wish to burden applicants for initial certification with unnecessary procedural requirements; indeed, we have previously stated a policy of reducing such burdens and have recommended legislative changes designed to encourage new entry. Absent substantial opposition or contested issues of substance, show cause procedures as requested by Mackey could certainly be appropriate for disposition of applications requesting initial certification. However, in this particular case we find

that Mackey's submissions are deficient in two crucial areas, each constituting a major issue of substance, notwithstanding our satisfaction as to the primary issues as discussed above. These deficiencies, and the complexity inherent in their resolution, dictate that a hearing be conducted. Under the circumstances, little is to be gained by contemporaneous show cause procedure since we foresee minimal contest at hearing on the additional issues. Were it not for the necessity to resolve by evidentiary hearing those crucial issues described hereafter, we would be inclined to grant Mackey's motion for a temporary certificate by show cause procedures.

Mackey's supporting data indicates that 50.4 percent of the applicant's stock is owned by Frederick B. Ayer and Associates, Inc. (Associates), a Delaware corporation. Mr. Frederick B. Ayer (Mr. Ayer) owns and controls all of the stock of Associates, as well as Universal Trading Corporation (Universal), a Panama corporation, both of which are engaged in the business of selling and leasing aircraft and aircraft equipment. The common control relationships which resulted from the acquisition of Mackey by Mr. Ayer, through Associates, while he controlled Universal have been exempted from the requirements of section 408 of the Act pursuant to the proviso of subsection (a)(5) thereof.⁹ However, the Board's authority to exempt an acquisition from the requirements of section 408(a)(5), pursuant to the proviso, is limited to the acquisition of a noncertificated air carrier. Thus, the certification of Mackey would terminate the exemption granted by Order 75-7-84 by voiding its statutory basis. Accordingly, the appropriate section 408 issues regarding Mr. Ayer's and Associates' acquisition of control of Mackey must be considered in conjunction with Mackey's application for a certificate of public convenience and necessity.¹⁰

Similarly, as a Part 298 carrier, Mackey has been exempt from most of the provisions of sections 408 and 409 of the Act, pursuant to 14 CFR 298.11. As a certificated carrier, Mackey would be fully subject to sections 408 and 409 and the Board's regulations promulgated thereunder. While Mackey's supporting evidence does not reveal any section 408 or 409 issues other than those specified above, the application and supporting data are silent on the question of whether such relationships exist. These issues must also be explored on the record so as to enable the Board to take appropriate action if such relationships, in fact, exist.

We also note that Mackey's supporting data is largely silent on the applicant's plans for future financing. The area of financial fitness is of particular concern in light of Mackey's negative retained earnings and the losses it has experienced in four of the last five years.

⁹ See Order 75-7-84, July 17, 1975.

¹⁰ In order to facilitate the examination of these issues, Mr. Ayer, Associates, and Universal will be made parties to this proceeding.

Finally, the applicant has not submitted sufficient information for us to determine the environmental consequences of its application at this time. Therefore, we will require Mackey to file the information set forth in Part 312 of the Board's Procedural Regulations. We will allow Mackey 30 days from the date of service of this order to file its environmental evaluation.

Accordingly, it is ordered, That: 1. The applications of Mackey International, Inc. in Dockets 25546 and 28266 for a temporary certificate of public convenience and necessity and for certain other relief¹¹ (hereinafter designated the "Mackey Certification Proceeding"), be and they hereby are set for hearing before an administrative law judge of the Board at a time and place to be designated hereafter as the orderly administration of the Board's docket permits;

2. Any authority granted in the proceeding instituted by this order shall be on a subsidy ineligible basis;

3. The motion of Mackey International, Inc. in Dockets 25546 and 28266 for an order to show cause be and it hereby is denied;

4. The motion of Mackey International, Inc. and the request of the Broward County Board of County Commissioners for leave to file otherwise unauthorized documents be and they hereby are granted;

5. Mr. Frederick B. Ayer (individually), Frederick B. Ayer and Associates, Inc., Universal Trading Corporation, Eastern Air Lines, Mackey International, and the Broward County Board of County Commissioners be and they hereby are made parties to this proceeding;

6. Mackey International shall file an environmental evaluation pursuant to § 312.12 of the Board's Procedural Regulations within 30 days from the date of service of this order; and

7. Applications, motions for consolidation, and petitions for reconsideration of this order shall be filed within 20 days from the date of service of this order, and answers thereto shall be filed within 10 days thereafter.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 76-32068 Filed 11-1-76; 8:45 am]

CIVIL SERVICE COMMISSION DEPARTMENT OF COMMERCE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Special

¹¹ See, e.g., footnote 4, *supra*.

⁹ Mackey's reply was accompanied by a motion for leave to file an otherwise unauthorized document. We will grant the motion. The Broward County pleading was filed in letter form, served on all parties, and includes a request for leave to submit a reply. Although not in the form required by the Board's Rules of Practice, we will, nevertheless, accept the Broward County pleading as a matter of discretion.

Assistant for Regional Economic Coordination, Office of the Secretary.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-32005 Filed 11-1-76;8:45 am]

DEPARTMENT OF COMMERCE

Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Department of Commerce to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Director, National Marine Fisheries Service, Office of the Director.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-32006 Filed 11-1-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Energy Administration to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Administrator (External Affairs), Office of the Administrator.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-32003 Filed 11-1-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

Notice of Revocation of Authority To Make Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Federal Energy Administration to fill by noncareer executive assignment in the excepted service the position of Deputy Assistant Administrator for Regulations Development, Regulations Development, Regulatory Programs.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.76-32004 Filed 11-1-76;8:45 am]

GENERAL SERVICES ADMINISTRATION

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of § 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the General Services Administration to fill by noncareer executive assignment in the excepted service the position of Commissioner, Property Management and Disposal Service.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc. 76-32002 Filed 11-1-76;8:45 pm]

COMMUNITY SERVICES ADMINISTRATION

[CSA Notice 6000-2]

APPLICABILITY OF DIRECTIVES

Deletions

This notice applies to all grants made under Titles II, III-B and VII of the Community Services Act of 1974 if the assistance is administered by the Community Services Administration.

1. *Background.* As the first stage in a three stage project for purging the issuance system of outdated Instructions, CSA has undertaken a review of all Instructions which were issued prior to 1968 to determine relevancy and need and to take appropriate action.

2. *Purpose.* The purpose of this Notice is to inform grantees, CSA Regional Offices and Headquarters staff that the following Instructions are being deleted from CSA's list of applicable directives. As each of these policy statements was issued prior to passage of Section 623 of the Community Services Act (1972) requiring publication of all rules and regulations, none was ever published in the FEDERAL REGISTER and, therefore, not

codified in the Code of Federal Regulations.

Instruction	Reason for Deletion
6001-02, Eligible Program Development Activities.	There is no longer a provision in CSA's legislation specifically authorizing financial assistance for program development for Title II grants.
6011-01, CAP Employment Assistance Directive to CAAs re Job Corps.	Employment services now are provided by contractors who at a minimum have statewide coverage.
6011-02, Coordination with the Neighborhood Facilities Grant Program.	Programs currently being funded through community development block grants. Coordination is no longer legislatively required and program is currently funded by several Federal agencies.
6102-01, Restriction on Use of OEO Grant Funds for NYC-Type Projects.	NYC is no longer a categorical program.
6347-01, Cooperation between CAA's and Local Housing Authorities in PHA's Leased Housing Program.	Leased Housing Program is no longer a categorical program and is currently funded by several Federal agencies.
6803-01, Ineligible Expenditures.	This information is contained in other CSA Instructions.
7400-01, Training and Technical Assistance.	This is not a policy statement and, therefore, should not exist as a CSA Instruction.

Effective date: November 2, 1976.

SAMUEL R. MARTINEZ,
Director.

[FR Doc.76-32087 Filed 11-1-76;8:45 am]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 1012]

PETITIONS FOR RECONSIDERATION OF ACTIONS

Rule Making Proceedings Filed

OCTOBER 26, 1976.

Docket or RM No.	Rule No.	Subject	Date Rec'd.
19528		Proposals for new or revised classes of interstate and foreign message toll telephone service (MTS) and wide area telephone service (WATS).	
		Filed by Vincent Gallego, attorney for GTE Service Corp. and its affiliated domestic telephone operating companies.	Oct. 20, 1976
20149		Revision of FCC form 303, application for renewal of broadcast station license and certain rules relating thereto.	
		Filed by J. Laurent Scharf and William H. Fitz, attorneys for RKO General, Inc.	Do.
20935 (RM-2690)	Sec. 73.202(b)	Amendment of sec. 73.202(b), table of assignments, FM broadcast stations, (Naples and North Naples, Fla.).	
		Filed by Russell G. Salter for Sunshine Broadcasters, Ltd.	Oct. 15, 1976

NOTE.—Oppositions to petitions for reconsideration must be filed on or before Nov. 17, 1976. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.76-31895 Filed 11-1-76;8:45 am]

FEDERAL ENERGY ADMINISTRATION

CASES FILED WITH THE OFFICE OF EXCEPTIONS AND APPEALS

Week of October 1 Through October 8,
1976

Notice is hereby given that during the week of October 1 through October 8, 1976 the appeals and applications for exception or other relief listed in the Appendix to this Notice were filed with the Federal Energy Administration's Office of Exceptions and Appeals.

Under the FEA's procedural regulations, 10 CFR, Part 205, any person who will be aggrieved by the FEA action sought in such cases may file with the FEA written comments on the application within ten days of service of notice, as prescribed in the procedural regulations. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first.

MICHAEL F. BUTLER,
General Counsel.

OCTOBER 27, 1976.

APPENDIX.—List of cases received by the Office of Exceptions and Appeals, Oct. 1 through Oct. 8, 1976

Date	Name and location of applicant	Case No.	Type of submission
Oct. 1, 1976	Cities Service Co., Washington, D.C. (If granted: Cities Service Co. would receive a stay of the requirements of a remedial order issued to the firm on Sept. 10, 1976, pending a final determination on appeal of the order which it intends to file.)	FES-0054	Stay request (remedial order issued on Sept. 10, 1976).
Do.....	Glacier Park Co., Washington, D.C. (If granted: Glacier Park Co. would receive an exception from the old oil entitlements program which would relieve the firm of all entitlement purchase requirements incurred to date, and from all entitlement purchase obligations arising from transactions in July 1976 and subsequent months.)	FEE-3156	Exception from the old oil entitlements program (sec. 211.67(b)).
Do.....	Mobil Oil Corp., New York, N.Y. (If granted: Mobil Oil Corp. would receive an extension of the price relief granted in FEA's July 20, 1976, decision and order.)	FEX-0089	Extension of FEA's exception relief granted in Mobil Oil Corp., 4 FEA par. 83,014 (July 20, 1976).
Do.....	Southland Oil Co., Savannah, Ga. (If granted: Southland Oil Co. would be assigned a new, lower priced supplier of motor gasoline on the basis that it is continuing to experience a serious hardship.)	FEE-3202	Extension of exception relief in Southland Oil Co., 4 FEA par. 83,036 (Aug. 5, 1976).
Oct. 4, 1976	Colorado State Board of Land Commissioners, Denver, Colo. (If granted: The FEA's Aug. 27, 1976, decision and order would be modified and crude oil produced from the Lowry Bombing Range Field wells 12-25 and 5-25 would be sold at upper tier ceiling prices for the benefit of both the working interest owners and the royalty owners.)	FEA-0974	Appeal of FEA's decision and order in Vaughney and Vaughney, 4 FEA par. 83072 (Aug. 27, 1976).
Do.....	Grier Oil Co., Aberdeen, Md. (If granted: The FEA's Aug. 19, 1976, decision and order would be rescinded and Grier Oil Co. would be permitted to increase its maximum allowable selling price for No. 2 heating oil retroactively to Nov. 1, 1973.)	FEA-0976	Appeal of FEA region III's decision and order dated Aug. 19, 1976.
Do.....	Jannetty Oil, Inc., Waterbury, Conn. (If granted: Jannetty Oil, Inc., would not be required to file information relating to its fuel oil prices as required by form P-M-112.)	FEE-3204	Exception to reporting requirements.
Do.....	D. C. Latimer, et al Jackson, Miss. (If granted: The FEA's Aug. 26, 1976, interpretation would be rescinded and crude oil produced from the Vyrion Womack No. 1 well located in Simpson County, Miss., would be sold at upper tier ceiling prices.)	FEA-0975	Appeal of the FEA region IV's Aug. 26, 1976, interpretation of 212.72.
Do.....	Little America Refining Co., Evansville, Wyo. (If granted: The FEA's Sept. 10, 1976, decision and order would be rescinded and LARCO would be relieved of 100 pct of its entitlement purchase obligations for the period September 1976 through February 1977.)	FEA-0972	Appeal of FEA's decision and order in Little America Refining Co., 4 FEA par. (Sept. 10, 1976).
Do.....	McCulloch Gas Processing Corp., Washington, D.C. (If granted: McCulloch Gas Processing Corp., would be granted exception from sec. 211.9 to terminate any supplier-wholesale purchaser relationship between MGPC and H. W. Lemens, Inc.)	FEE-3205	Allocation exception (sec. 211.9).
Do.....	Superior Oil Co., Houston, Tex. (If granted: Superior Oil Co. would be granted an extension of time in which to file the information report on energy consumption.)	FEE-3203	Exception to reporting requirement. Stay requested.
Do.....	Tenneco Oil Co., Houston, Tex. (If granted: The FEA's July 12, 1976, decision and order would be modified to eliminate its escrow provisions and to allow Tenneco to recover all moneys escrowed.)	FMR-0063	Modification of FEA's decision and order in Tenneco Oil Co., 4 FEA par. 85,006 (July 12, 1976).
Do.....	W. S. Hatch Co., Woods Cross, Utah (If granted: The FEA's Aug. 27, 1976, decision and order would be rescinded and W. S. Hatch would continue to transport crude oil to Phillips and Amoco that was diverted to Arizona Fuels in the Aug. 27 decision and order.)	FEA-0977	Appeal of FEA's decision and order in Arizona Fuels Corp., 4 FEA par. 83,061 (Aug. 27, 1976).
Oct. 5, 1976	Edward A. Applegate, South Orange, N.J. (If granted: The FEA's Sept. 27, 1976, information request denial would be rescinded and Edward A. Applegate would receive access to portions of allocation orders which was withheld.)	FEA-0979	Appeal of FEA's information request denial.
Do.....	Braden-Zenith, Inc., Wichita, Kans. (If granted: Braden-Zenith, Inc., would receive a temporary stay of the requirements of a remedial order which requires the firm to refund to NCRA overcharges totaling \$401,731.)	FST-0015	Request for temporary stay.

Date	Name and location of applicant	Case No.	Type of submission
Do.....	A. C. Duerr (R. M. Stephens plant), Tulsa, Okla. (If granted: A. C. Duerr would be permitted to increase prices to reflect nonproduct cost increases in excess of \$0.005 per gallon for natural gas liquid products produced at the R. M. Stephens plant.)	FEE-3307	Price exception (sec. 212.165).
Do.....	Getty Oil Co., New York, N. Y. (If granted: The FEA's Aug. 12, 1976 Remedial Order would be rescinded.)	FEA-0978	Appeal of FEA's Aug. 12, 1976, remedial order.
Do.....	Phillips Petroleum Co., Bartlesville, Okla. (If granted: Effective Aug. 1, 1976, the Phillips Petroleum Co. would be permitted to allocate increased costs which result from payment of import fees imposed by the Commonwealth of Puerto Rico to the prices of covered products sold in Puerto Rico.)	FEE-3306	Price exception (sec. 212.83 (b)).
Do.....	Placid Oil Co., Washington, D.C. (If granted: The FEA's Sept. 8, 1976, decision and order would be reversed.)	FMR-0064	Rescission of FEA's decision and order in Placid Oil Co., 4 FEA par. (Sept. 8, 1976).
Oct. 6, 1976	William C. Kirkwood, Casper, Wyo. (If granted: William C. Kirkwood's Dubois Federal Lease No. W-0317604, Cowley Field Dalton No. 1 lease, Justice Field Rudnik No. 4 lease, and Justice Field Rudnik No. 32-27 lease would be classified as stripper well leases.)	FEE-3308	Price exception (sec. 212.74).
Oct. 7, 1976	Consumers Union of United States, Inc., Washington, D.C. (If granted: The Director of the FEA Office of Exceptions and Appeals would appoint and pay a special public counsel to represent consumers in cases involving pass through of increased nonproduct costs by refiners prior to Feb. 1, 1976. See 41 FR 43652 (Oct. 5, 1976).)	FEX-008	Request for assignment of a special public counsel.
Do.....	Hunt Oil Co., Dallas, Tex. (If granted: Hunt Oil Co.'s entitlement sales obligation would not be reduced to reflect upward adjustments in its old crude oil receipts and runs to stills for the months of February and March 1976.)	FEE-3309 FES-3209	Allocation exception (sec. 211.67). Stay requested.
Do.....	Martin Oil Service, Inc., Washington, D.C. (If granted: Martin Oil Service, Inc., would be permitted to import No. 2 fuel oil and motor gasoline on a fee-free basis.)	EPI-0104	Exception from the base fee requirements (sec. 213.35(c)).

[FR Doc.76-31947 Filed 10-28-76;9:16 am]

PROPOSED INDUSTRIAL ENERGY EFFICIENCY IMPROVEMENT TARGETS

Hearing and Request for Public Comments

In accordance with section 374 of the Energy Policy and Conservation Act (EPCA), Pub. L. 94-163, the Federal Energy Administration (FEA) hereby proposes industrial energy efficiency improvement targets for the ten most energy-consuming manufacturing industries in the United States, and invites the oral and written presentation of views thereon by interested persons. When adopted, these targets will be published in the FEDERAL REGISTER, and will provide the basis for conservation activities undertaken in furtherance of the industrial energy conservation program.

I. THE INDUSTRIAL ENERGY CONSERVATION PROGRAM

A. *Introduction.* Part D of Title III of the EPCA, 42 U.S.C. 6341-6346, requires that FEA establish a program to promote increased energy efficiency in United States industry. This program includes the identification and ranking of major energy-consuming manufacturing industries, the establishment of energy efficiency improvement targets for at least the ten most energy-consuming industries, and the identification of major energy-consuming corporations within targeted industries for the purpose of reporting industry progress in improving energy efficiency.

In accordance with section 373 of the EPCA, FEA has identified the ten most energy-consuming industries in the United States, to which the energy efficiency improvement targets proposed in this notice shall apply (41 FR 12766, March 26, 1976). These industries are as

follows, based on the two-digit standard industrial classification (SIC):

Ranking	Industry	SIC No.
1	Chemical and allied products.....	28
2	Primary metal industries.....	33
3	Petroleum and coal products.....	29
4	Stone, clay, and glass products.....	32
5	Paper and allied products.....	26
6	Food and kindred products.....	20
7	Fabricated metal products.....	34
8	Transportation equipment.....	37
9	Machinery, except electrical.....	35
10	Textile mill products.....	22

Within each such targeted industry, the corporations which (1) consume at least one trillion British thermal units (Btu's) of energy per year, and (2) are among the top fifty in energy consumption, will be required (unless exempted pursuant to section 376(g)) to submit mandatory reports directly to FEA commencing January 1, 1977, enabling FEA to monitor the improvement in energy efficiency which is being made in that industry. FEA has requested information for the purpose of identifying these corporations (41 FR 36838, September 1, 1976). FEA has also issued proposed criteria whereby these corporations may be eligible for the exemption in section 376(g) (41 FR 38819, September 13, 1976).

B. *Energy Efficiency Improvement Targets.* In accordance with section 374(a)(2), each energy efficiency improvement target proposed in this notice is established at a level which represents the maximum feasible improvement in energy efficiency which the subject industry can achieve by January 1, 1980. Conceptually, each target represents the percentage reduction in energy con-

sumed per unit of output or activity from the base year to the target year. The base year is calendar year 1972. The target year is defined as a projected year throughout which the industry would have in place the operating procedures and technologies determined to represent the maximum feasible improvement in energy efficiency as of January 1, 1980. Targets are defined for each two-digit SIC-code industry listed above. While certain information on industry progress in meeting the targets is required under the program, the EPCA specifically provides at section 372(2) that the targets are voluntary and further provides at section 376(f) that no sanctions shall attach for failure to meet them.

1. *Target calculation.* The proposed targets, expressed in terms of an integer percentage, were developed in accordance with section 374(b) of the EPCA, which requires FEA to consider:

(1) The objectives of the industrial energy conservation program;

(2) The technological feasibility and economic practicability of utilizing alternative operating procedures and more energy efficient technologies in each identified industry;

(3) Special circumstances or characteristics which pertain to any identified industry; and

(4) Actions planned or implemented by any such industry to reduce its consumption of petroleum products or natural gas.

The two-digit industry level proposed targets were initially calculated by aggregating estimated energy efficiency improvement results derived for components of the two-digit industries. Technological feasibility and economic practicability of utilizing alternative operating procedures and more efficient technologies were considered at this level. These estimated "gross" two-digit targets were then further refined to reflect special industry circumstances or characteristics and actions anticipated to reduce consumption of petroleum products and natural gas.

The special industry circumstances could include those over which industry has no control and would increase its energy consumption. They could also represent circumstances over which the industry does have control but wherein other factors may offset certain energy efficiency gains. For example, in the paper and allied products industry the proposed target represents a change of 12 percent in "total" energy consumption per unit of output. To achieve this target it will require an improvement in the use of fossil fuels of 28 percent to offset greater industry utilization of otherwise waste materials which have inherently lower combustion efficiencies than purchased fossil fuels.

With regard to the factors required to be considered under section 374(b), the following criteria were applied:

(a) *Technological feasibility.* The primary factors determining technological

feasibility of utilizing alternative operating procedures and more efficient technologies are (i) the ability to implement measures identified by January 1, 1980, (ii) the degree to which the measures represent proven practice, and (iii) the compatibility of the measures with the products and processes of the industry.

(b) Economic practicability. The economic practicability of various operating procedures and technologies reflected in the proposed targets depends primarily on the availability of capital for such procedures and technologies. Detailed target analyses indicate that the targets vary by as much as four percentage points, depending on projections and assumptions relative to the availability of capital. These detailed analyses provide the bases for FEA's determinations of economic practicability and are available for review as provided below.

(c) Conversion from petroleum products and natural gas. Consideration was given in developing the proposed target to the effect of conversion from scarce energy forms such as natural gas and petroleum products. Any energy inefficiencies associated with conversion from these scarce energy forms were examined.

(d) Special circumstances and considerations. The proposed targets reflect necessary additional energy consumption associated with various requirements of law, such as certain pollution control requirements, which take effect between the base and target years and with various other changes beyond the control of industry, such as declining quality of ore grade and alterations in product mix, or changes in product characteristics.

2. Target levels. The proposed target for each of the ten identified industries is set out below, according to the order in which each such industry ranks in energy consumption:

Industry	SIC No.	Target (percentage)
Chemical and allied products.....	28	16
Primary metal industries.....	33	10
Petroleum and coal products.....	29	12
Stone, clay, and glass products.....	32	17
Paper and allied products.....	26	14
Food and kindred products.....	20	14
Fabricated metal products.....	34	24
Transportation equipment.....	37	16
Machinery, except electrical.....	35	15
Textile mill products.....	22	27

II. ACCESS TO FURTHER MATERIALS

Copies of the detailed studies upon which each of the proposed targets is based will be available for inspection at the FEA Freedom of Information Reading Room, Room 2107, Federal Building, 12th and Pennsylvania, N.W., Washington, D.C., between the hours of 8:30 a.m. and 4:30 p.m. Monday through Friday, and at each FEA Regional Office as follows:

Region	Address	Hours
I	Analex Bldg., FEA Library, 150 Causeway St., Boston, Mass. 02114.	8:30 to 5.
II	Room 3400, 26 Federal Plaza, New York, N.Y. 10007.	Do.
III	Room 1011, 1421 Cherry St., Philadelphia, Pa. 19102.	8 to 4:30.
IV	8th Floor, 1655 Peachtree St. N.E., Atlanta, Ga. 30309.	Do.
V	Room A-333, 175 West Jackson Blvd., Chicago, Ill. 60604.	Do.
VI	Room 280, 2836 West Mockingbird Lane, Dallas, Tex. 75235.	Do.
VII	Third Floor Library, 112 East 12th St., Kansas City, Mo. 64106.	7:30 to 4.
VIII	Room 206, 1075 South Yukon St., Lakewood, Colo. 80226.	7:30 to 4:30.
IX	Third Floor Reading Room, 111 Pine St., San Francisco, Calif. 94111.	7:30 to 3.
X	Room 1992, 915 Second Ave., Seattle, Wash. 98174.	8 to 4.

Copies of the studies will, wherever possible, be made available for duplication after regular business hours. Persons wishing to reserve a copy for this purpose shall contact FEA in advance.

III. PUBLIC COMMENT AND HEARING PROCEDURES

Interested persons are invited to submit written views, arguments, or data with respect to the proposed industrial

energy efficiency improvement targets set forth in this notice to Executive Communications, Room 3309, Federal Energy Administration, Box JJ, Washington, D.C. 20461. Comments should be identified on the outside of the envelope and on documents submitted to FEA Executive Communications with the designation, "Proposed Industrial Efficiency Targets—SIC _____" the blank being filled with the SIC-code industry or industries to which the comments apply. Fifteen copies should be submitted. All comments received by December 6, or the date on which the industry hearing concludes (see below), whichever occurs later, will be considered by FEA in evaluating these proposed targets.

Any information or data considered by the person furnishing it to be confidential must be so identified and submitted in writing, one copy only. The FEA reserves the right to determine the confidential status of the information or data and to treat it according to its determination.

Public hearings will be held on each of the proposed energy efficiency improvement targets set out in this notice, according to the following schedule and at the listed locations:

SIC	Industry	Dates	Location	Room
22	Textile mill products.....	Nov. 22 and 23	Federal Bldg., 12th and Pennsylvania Ave. NW., Washington, D.C.	3000A
35	Machinery, except electrical.....	do.	do.	7132
34	Fabricated metal products.....	Nov. 30 and Dec. 1	do.	7132
26	Petroleum.....	Dec. 2 and 3	do.	3000A
37	Transportation equipment.....	do.	do.	7132
20	Food.....	Dec. 7 and 8	do.	3000A
28	Chemicals.....	do.	do.	7132
32	Stone, clay, glass.....	Dec. 9 and 10	do.	7132
33	Primary metals.....	do.	do.	3000A
26	Paper.....	do.	Old Post Office Building, 11th and Pennsylvania Ave. NW., Washington, D.C.	201

Any person who has an interest in the targets proposed today, or who is a representative of a group or class of persons that has an interest in the proposed targets, must make a written request for an opportunity to make an oral presentation. Such request should be directed to Executive Communications, Room 3309, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461 no later than twelve calendar days before the date of the hearing at which the person intends to testify; such request may be hand delivered or mailed. Requests to testify must include (1) a description of the nature of the prospective witness' interest in the proposed target(s); (2) a statement, if appropriate, of the reasons why the prospective witness is a proper representative of a group or class of persons which has such an interest; (3) a concise summary of the proposed oral presentation; and (4) a telephone number where the prospective witness may be contacted through the date of the last hearing at which he wishes to appear. Each person selected to be heard will be so notified by FEA no later than nine calendar days prior to the hearing at

which the witness desires to testify; upon such notification, he must submit 100 copies of his intended testimony to FEA, Executive Communications, Room 3309, 12th and Pennsylvania Avenue, N.W., Washington, D.C. 20461. Submissions of intended testimony must be received no later than five working days prior to the hearing at which the testimony is scheduled to be presented.

FEA reserves the right to select the persons to be heard at these hearings, to schedule their respective presentations, and to establish the procedures governing the conduct of the hearings. The length of each presentation may be limited, based upon the number of persons requesting to be heard.

An FEA official will be designated to preside at the hearings. These will not be judicial or evidentiary-type hearings. Questions may be asked only by those conducting the hearings, and there will be no cross-examination of persons presenting statements. Any decision made by the FEA with respect to the subject matter of the hearings will be based on all information available to the FEA. At the conclusion of all in-

tial oral statements, each person who has made an oral statement will be given the opportunity to make a rebuttal statement. Rebuttal statements will be given in the order in which the initial statements were made and will be subject to time limitations set by the presiding officer.

Any interested persons may submit questions, to be asked of any person making a statement at the hearings, either to FEA Executive Communications no later than three days before the hearing at which the person to be questioned will appear, or to the presiding officer during the hearing. FEA and the presiding officer will determine whether the question is relevant and whether time limitations permit it to be presented for answer.

Any further procedural rules needed for the proper conduct of the hearings will be announced by the presiding officer.

A transcript of the hearings will be made and the entire record of the hearings, including the transcript, will be retained by FEA and made available for inspection at the FEA Freedom of Information Reading Room, Room 2107, 12th and Pennsylvania Avenue, N.W., Washington, D.C. between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday. Any person may purchase a copy of the transcript from the reporter.

The National Environmental Policy Act of 1969, as amended, 42 U.S.C. 4321 et seq., requires that Federal agencies, to the fullest extent possible, execute their responsibilities in accordance with the policies set forth in that Act, and prepare a detailed statement concerning "major Federal actions significantly affecting the quality of the human environment". However, as explained above, the proposed targets are strictly voluntary. Therefore, while it is true that the goal of the targets is to induce private industry to consume less energy and, thus, in most cases, reduce environmental residuals, any actual energy savings with resulting changes in environmental effects will occur solely as a result of, and in a manner determined by, private, rather than Federal, actions. The proposed targets are, therefore, not "major Federal actions significantly affecting the quality of the human environment" and do not require further environmental review.

As required by section 7(c) (2) of the Federal Energy Administration Act of 1974, as amended, Pub. L. 93-275, this proposal has been submitted to the Administrator of the Environmental Protection Agency for his comments concerning its effect on the quality of the environment. The Administrator has advised FEA that he has no comment.

This proposal has been reviewed in accordance with Executive Order 11821 and OMB Circular No. A-107, and has been determined not to require evaluation of its inflationary impact.

[Federal Energy Administration Act of 1974, Pub. L. 93-275, as amended; E.O. 11790, 39 FR 23185; Energy Policy and Conservation Act, Pub. L. 94-163, E.O. 11912, 41 FR 15825]

Issued in Washington, D.C., October 27, 1976.

MICHAEL F. BUTLER,
General Counsel,
Federal Energy Administration.
[FR Doc.76-31946 Filed 10-28-76;9:16 am]

DEPARTMENT OF STATE

Agency for International Development

[Delegation of Authority No. 119]

BURUNDI

Delegation of Authority With Respect to Administration of A.I.D. Program

Pursuant to the authority delegated to me by Delegation of Authority No. 104 from the Secretary of State, dated November 3, 1961 (26 FR 10608), I hereby delegate to the principal diplomatic officer of the United States in Burundi, with respect to the administration of the foreign assistance program within the country to which he is accredited, the authorities delegated to Directors of Missions of the Agency for International Development (A.I.D.) in unpublished Delegation of Authority of January 10, 1955, A.I.D. Handbooks, manual orders, regulations (published or otherwise), policy directives, policy determinations, memoranda or other instructions as these may be amended, supplemented or superseded from time to time.

The exercise of the authorities delegated herein shall be subject to the limitations applicable to the exercise of such authorities by A.I.D. Mission Directors.

The authority delegated herein may be redelegated to the officer at the post principally responsible for A.I.D. activities and may be exercised by persons who are performing the functions of such officer in an "acting" capacity.

This delegation of authority shall be effective immediately.

Dated: October 7, 1976.

DANIEL PARKER,
Administrator, Agency for
International Development.

[FR Doc.76-32081 Filed 11-1-76;8:45 am]

DEPUTY ASSISTANT ADMINISTRATOR, BUREAU FOR LATIN AMERICA

Redelegation of Authority

Pursuant to the authority delegated to me as Assistant Administrator, Bureau for Latin America, I hereby redelegate to the Deputy Assistant Administrator, Bureau for Latin America, authority to act as my alter ego, to be responsible, under my direction and concurrently with me, for all aspects of the activities of this Bureau. In accordance with this delegation, the Deputy Assistant Administrator is authorized to represent me, and to exercise my authority with respect to all functions now or hereafter conferred upon me by A.I.D. delegations of authority, regulations, manual orders, directives, notices, or other documents, by law or by any competent authority.

This redelegation of authority is effective immediately.

Dated: October 15, 1976.

EUGENE N. S. GERARD II,
Assistant Administrator
for Latin America.

[FR Doc.76-32084 Filed 11-1-76;8:45 am]

DIRECTOR, EAST AFRICA REGIONAL ECONOMIC DEVELOPMENT SERVICES OFFICE

Redelegation of Authority Regarding Contracting Functions No. 99.1.81

Pursuant to the authority delegated to me as Director, Office of Contract Management, under Redelegation of Authority No. 99.1 (38 FR 12836) from the Assistant Administrator for Program and Management Services of the Agency for International Development, I hereby redelegate to the Director, Regional Economic Development Services Office/East Africa, the authority to:

(1) Sign U.S. Government contracts and amendments thereto, provided that each individual contract action does not exceed \$500,000 or local currency equivalent; and,

(2) Sign contracts with individuals for the services of the individual alone without monetary limitation; and,

(3) Approve A.I.D. grant-financed host country contracts for technical assistance without monetary limitation; and,

(4) Sign grants and grant amendments (other than to foreign governments or agencies of foreign governments) for technical assistance activities, provided each individual grant action does not exceed \$500,000; and

(5) With respect to those contracts and grants referred to above; to make findings and determinations concerning advance payments, including those financed by Federal Reserve Letters of Credit and to approve the contract provisions relating to such advance payment. This authority is limited to advance payments on contracts with nonprofit educational or research institutions, including international organizations.

The authorities herein delegated may be redelegated in writing, in whole or in part, by said Regional Director as follows:

(1) Authority up to \$25,000 may be redelegated at the Regional Director's discretion;

(2) Authority over \$25,000 may be redelegated with the prior concurrence of the Director, Office of Contract Management (except that such prior concurrence is not required in the case of a redelegation to the Regional Director's principal deputy).

Such redelegations shall remain in effect until revoked by the Regional Director, or upon advice from the Director, Office of Contract Management that his concurrence in a redelegation is withdrawn, whichever shall first occur. The authority so delegated by the Regional Director may not be further redelegated.

The authority delegated herein is to be exercised in accordance with regulations, procedures and policies promulgated within A.I.D. in effect at the time this authority is exercised and is not in derogation of the authority of the Director of the Office of Contract Management to exercise any of the functions herein redelegated.

The authority herein delegated to the Regional Director may be exercised by duly authorized persons who are performing the functions of the Regional Director in an acting capacity.

The Redelegation of Authority to the Director, East Africa Regional Economic Development Services Office dated November 2, 1973 (38 FR-32825); is hereby revoked.

This redelegation of authority shall be effective October 18, 1976.

Dated: October 13, 1976.

HUGH L. DWELLEY,
Director,
Office of Contract Management.

[FR Doc.76-32082 Filed 11-1-76;8:45 am]

MISSION DIRECTOR AND DEPUTY MISSION DIRECTOR, USAID BANGLADESH Redelegation of Authority

Pursuant to the authority delegated to me by A.I.D. Delegations of Authority No. 5, dated December 29, 1961 (27 FR 449), as amended, with respect to Loan Agreements; No. 38, dated April 10, 1964, (29 FR 5280), as amended, with respect to Project Agreements, Trust Fund Agreements, and Grants to International Organizations; No. 99 dated April 27, 1973 (38 FR 12834), with respect to Contracting and Related Functions; and No. 112, dated October 12, 1975 (40 FR 48955), with respect to other authorities and functions delegated to me, I hereby redelegate to the Mission Director and Deputy Mission Director, USAID/Bangladesh, and to any person acting in their official capacity, authority to exercise any of the following functions, retaining for myself concurrent authority to exercise any of the functions herein redelegated:

1. Authority to negotiate and execute loan and grant agreements and amendments thereto, with respect to loans and grants authorized under the Foreign Assistance Act of 1961, as amended (the Act), in accordance with the terms of the authorization of such loan or grant; such grant agreements for purposes of this authority and all other authorities contained in this redelegation shall mean agreements with foreign governments, foreign government agencies and international organizations having a membership consisting primarily of such foreign governments;

2. Authority to implement loan and grant agreements with respect to loans and grants authorized under the Act and loans authorized by the Board of Directors of the corporate Development Loan Fund, including the following:

(a) Authority to prepare, negotiate, sign and deliver letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such loan or grant agreements except as provided in 2(e) below;

(c) Authority to negotiate, execute and implement all agreements and other documents ancillary to such loan and grant agreements;

(d) Authority to sign or approve Project Implementation Orders-Technical Services (PIO/T); and

(e) Authority to approve contractors, review and approve the terms of contracts, amendments and modifications thereto, and invitations for bids with respect to such contracts financed by funds made available under such loan or grant agreements; the foregoing authority with respect to contractors and contracts does not extend to country contracts for technical assistance financed in whole or in part by an A.I.D. grant.

The authorities enumerated above may be redelegated by the individuals listed above, as appropriate, but not successively redelegated, except that the authority described above in paragraph 1 with respect to execution of loan agreements and amendments may not be redelegated.

The authority enumerated above in paragraph 1 with respect to execution of loan agreements is also hereby redelegated under the same terms and conditions set forth herein to the U.S. Ambassador to Bangladesh.

This Redelegation of Authority is effective immediately.

Dated: October 7, 1976.

MICHAEL H. B. ADLER,
Acting Assistant Administrator,
Bureau for Asia.

[FR Doc.76-32083 Filed 11-1-76;8:45 am]

RESEARCH ADVISORY COMMITTEE Meeting

Pursuant to Executive Order 11769 and the provisions of section 10(a) (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the A.I.D. Research Advisory Committee meeting on December 9 and 10, 1976, at the Pan American Health Organization Building, 23rd Street and Virginia Avenue, NW., Conference Room "C", to review, appraise and make recommendations to the Administrator, Agency for International Development, concerning projects proposed for A.I.D. central research funding in the fields of agriculture, and health and population. The meeting will begin at 9:00 a.m. and adjourn at 5:30 p.m. each day. The meeting is open to the public. Dr. Erven J. Long, Associate Assistant Administrator is designated as the A.I.D. representative at the meeting. It is suggested that those desiring more

specific information contact Dr. Erven J. Long, 21st and Virginia Avenue, NW., Washington, D.C., 20523, or call area code 202-632-3800.

Dated: October 26, 1976.

ERVEN J. LONG,
A.I.D. Representative,
Research Advisory Committee.

[FR Doc.76-32085 Filed 11-1-76;8:45 am]

FEDERAL MARITIME COMMISSION

AMERICAN EXPORT LINES, INC., ET AL. Agreement Filed

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street, NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, Louisiana, San Francisco, California and San Juan, Puerto Rico. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before November 22, 1976. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

In the matter of American Export Lines, Inc., Associated Container Transportation (USA), Atlantic Container Line (GIE), Dart Container Line (CWA), A. P. Moller-Maersk Line, Moore-McCormack Lines, Nippon Yusen Kaisha, Puerto Rico Marine Management, Inc., Sea-Land Service, Inc., Seatrain International, S. A., United States Lines, Inc., Yamashita-Shinnihon Steamship Co., Ltd., Zim Israel Navigation Co., Ltd.

Notice of agreement filed by:

Mr. E. J. Heine, Jr., President, United States Lines, Inc., One Broadway, New York, New York 10004.

Agreement No. 10267, between the above-named container carriers, establishes the Container Carriers Discussion Agreement whereby the signatories agree to discuss, exchange ideas and to co-

operate in gathering information relevant to determining whether fair and uniform practices can be developed to facilitate work practices, increase work opportunities and allow for the most efficient employment of Guaranteed Annual Income recipients on the piers and water terminals of United States Atlantic and Gulf Coast Ports.

Dated: October 27, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-32065 Filed 11-1-76; 8:45 am]

SEATRIN TERMINALS OF CALIFORNIA, INC. PORT OF OAKLAND AND AMERICAN PRESIDENT LINES, LTD.

Agreement Filed

Notice of agreement filed by:

J. Kerwin Rooney, Port Attorney, Port of Oakland, 66 Jack London Square, P.O. Box 2064, Oakland, California 94607.

By order dated February 4, 1971, the Commission approved Agreements Nos. T-2479 and T-2480 between the Port of Oakland (Port) and Seatrain Terminals of California, Inc., (Seatrain), which provided for the sale of terminal facilities to the Port and the lease back of the property to Seatrain on a long-term lease. An amendment to each agreement was subsequently approved on March 24, 1971. The approved agreements provide for certain improvements and additional construction to be agreed upon by the parties and to be filed with the Commission as an Agreement on Additional Improvements. On January 29, 1976, (41 FR 4356) notice of an Agreement on Additional Improvements was published in the FEDERAL REGISTER. The parties have now executed a First Supplemental Agreement to Agreement on Additional Improvements which will modify the size of the "Container Freight Station," the "Warehouse and Storage Building" and the "Yard Installations" publicized in the notice of January 29. Since the proposed modification of the previously announced improvements constitutes an updating of the agreements, the Commission believes they should be brought to the attention of the public and notice is, therefore, being published herewith.

Dated: October 28, 1976.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-32066 Filed 11-1-76; 8:45 am]

VENE-EMBARQUES ET AL.

Independent Ocean Freight Forwarder
License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as independent ocean freight forwarders pursuant to section 44(a) of

the Shipping Act, 1916, (Stat. 522 and 46 U.S.C. 841(b)).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to communicate with the Director, Bureau of Certification and Licensing, Federal Maritime Commission, Washington, D.C. 20573.

Vene-embarques (Miguel A. Rodriguez, dba), 4709 NW, 7th Street, Suite 207, Miami, FL 33126.

Mahoney Export Services (John F. Mahoney, dba), 1280 Minnesota Street, San Francisco, CA 94107.

Keith International Corp., 3333 NW, 116th Street, Miami, FL 33167, Officers: Simon C. Clapner, President, Martin N. Gordon, Vice President, Gloria Clapner, Secretary, Keith W. Clapner, Treasurer.

Rosemary R. Downs Custom House Broker, and Foreign Freight Forwarder (Rosemary R. Downs, dba), 205 King Street, Suite 202, Charleston, SC 29402.

Dated: October 27, 1976.

By the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.76-32064 Filed 11-1-76; 8:45 am]

FEDERAL POWER COMMISSION

[Project No. 349]

ALABAMA POWER CO.

Order Approving Change in Land Rights

OCTOBER 21, 1976.

Alabama Power Company (Applicant), Licensee of the Martin Project, FPC No. 349, filed on April 8, 1976, an application for approval of a proposed easement authorizing the construction of water distribution lines across lands of the project. The Martin Project is located on the Tallapoosa River in Elmore, Tallapoosa, and Coosa Counties, Alabama. The proposed easement would be located in Tallapoosa County, Alabama.

Applicant seeks Commission approval for the granting of the proposed easement to Jackson's Gap Water Authority of sufficient width for the installation and maintenance of a proposed water distribution system. The system would include about nine miles of six- and eight-inch mains, of which about 2.3 miles would be located within the project boundary. About 10.6 miles of two- and three-inch distribution lines would also be located within the project boundary. The system would provide water to approximately 300 residences within and adjacent to the project boundary. The residences currently obtain their drinking water from wells. The system would be an extension of the existing Jackson's Gap Water Authority network, which obtains its water from the City of Dadeville.

The pipes would be laid in trenches that would be dug along existing roadways and would have a minimum depth of 30 inches. The trenches would be back-filled to the original ground elevation and, where necessary, the backfill areas would be seeded with grass to prevent

erosion and siltation. All angle points would be marked with permanent monuments detailing the pipeline location.

In a letter dated September 12, 1975, the State of Alabama Water Improvement Commission stated that after reviewing the plans and specifications for the proposed system, it concluded that the system should not cause an increase in water pollution.

Included in the application for change in land rights was a proposed instrument of conveyance containing conditions that: (a) use of the conveyed lands would not endanger health, create a nuisance or otherwise be incompatible with the overall project recreational use; (b) reserve to the Applicant the right to use the land for project purposes; (c) ensure that Martin Dam and reservoir would be protected from every form of pollution; (d) state that the operation, construction, and maintenance of the proposed pipeline would be in accordance with all applicable laws and procedures.

Our approval of the application would not constitute a major Federal action significantly affecting the quality of the human environment. There would be limited construction and no increase in water pollution. The State Historical Officer reported that no known historical or archeological sites would be affected by the proposed construction.

Public notice of the application was given with June 28, 1976, as the last day for filing protests or petitions to intervene. No protests or petitions to intervene were received. In addition, Applicant requests the use of the shortened procedures provided by Section 1.32(b) of the Commission's Rules of Practice and Procedure (18 C.F.R. § 1.32(b)).

At a hearing held on October 13, 1976, the Commission on its own motion received and made a part of the record in this proceeding all pleadings, submissions, and other evidence filed in regard to the application here at issue, and upon consideration of the record,

The Commission finds: (1) The application conforms to Commission's Rule's and Regulations.

(2) It is appropriate and in the public interest to approve the granting of the easement.

(3) Our approval of the easement would not constitute a major Federal action significantly affecting the quality of the human environment.

The Commission orders: (A) Alabama Power Company is hereby authorized to grant the easement to the Jackson's Gap Water Authority for the installation and maintenance of a water distribution system.

(B) Alabama Power Company shall file with the Commission for its records a copy of the completed instruments of conveyance within 60 days of their execution.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31966 Filed 11-1-76; 8:45 am]

[Docket No. RP72-110; PGA77-1]

ALGONQUIN GAS TRANSMISSION CO.
Rate Change Pursuant to Purchased Gas
Cost Adjustment Provision

OCTOBER 26, 1976.

Take notice that Algonquin Gas Transmission Company (Algonquin), on October 8, 1976, tendered for filing Twenty-Second Revised Sheet No. 10 to its FPC Gas Tariff, First Revised Volume No. 1.

Algonquin states that this sheet is being filed pursuant to Algonquin Gas' Purchased Gas Cost Adjustment Provision set forth in Section 17 of the General Terms and Conditions of its FPC Gas Tariff, First Revised Volume No. 1. Algonquin states that the rate change is being filed to reflect a reduction in Texas Eastern Transmission Corporation's rates due to repayments of advance payments for gas pursuant to Article V of the Stipulation and Agreement in Docket No. RP74-41.

Algonquin requests waiver of the Commission's Regulations to allow a November 1, 1976, effective date.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 2, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31960 Filed 11-1-76; 8:45 am]

[Docket No. ER77-15]

APPALACHIAN POWER CO.
Tariff Change

OCTOBER 26, 1976.

Take notice that American Electric Power Service Corporation (AEP) on October 12, 1976 tendered for filing on behalf of its affiliate, Appalachian Power Company (Appalachian), Modification No. 6 dated June 15, 1976 to the Interconnection Agreement dated February 28, 1949 between Appalachian Power Company and Duke Power Company, designated Appalachian Rate Schedule FPC No. 18.

Section 1 of Modification No. 6 provides for an increase in the Demand Charge for Short Term Power from \$0.40 to \$0.50 per kilowatt per week. Section 2 of Modification No. 6 provides for an increase in the Demand Charge for Limited Term Power from \$2.15 to \$2.75 per kilowatt per month, such rates proposed to become effective on November

15, 1976. Applicant states that since the use of Short Term and Limited Term Power cannot be accurately estimated, it is impossible to estimate the increase in revenues resulting from the Modification.

Any person desiring to be heard or to protest said application should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 8, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this application are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31988 Filed 11-1-76; 8:45 am]

[Docket No. RP74-61 (PGA)]

ARKANSAS LOUISIANA GAS CO.

Filing of Revised Tariff Sheets

OCTOBER 22, 1976.

Take notice that on October 12, 1976, Arkansas Louisiana Gas Company tendered for filing in Docket No. RP74-61 (PGA) Tenth Revised Sheet No. 4 in its Rate Schedule G-2, FPC Gas Tariff, First Revised Volume No. 1. This tariff sheet and supporting information are being mailed more than 30 days before the effective date of November 15, 1976.

The proposed tariff sheet is being filed pursuant to the purchased gas cost adjustment provisions contained in Arkla's Tariff and Order Nos. 452, 452-A and 452-B which permits Arkla to track concurrently, increases in its cost of gas due to pipeline supplier rate changes. The change in Arkla's rates proposed by this filing reflects a cost of gas adjustment that tracks rate increases filed by four of Arkla's pipeline suppliers, Tennessee Gas Pipeline Company, Texas Gas Transmission Corporation, Texas Eastern Transmission Corporation and United Gas Pipe Line Company, as a result of the increased cost of gas from Opinion 770.

The company states that copies of the revised tariff sheet and supporting data are being mailed to Arkla's jurisdictional customers and other interested parties effected by the tariff change.

Any person desiring to be heard or to protest said filing should file a Petition to Intervene or Protest with the Federal Power Commission 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 5, 1976. Protests will be considered by the Commission in deter-

mining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a Petition to Intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31975 Filed 11-1-76; 8:45 am]

[Docket No. RP76-10 (PGA)]

ARKANSAS LOUISIANA GAS CO.

Revised Proposed Stipulation and Agreement

OCTOBER 22, 1976.

Take notice that on July 26, 1976, Arkansas Louisiana Gas Company (Arkla) submitted in the above-referenced proceeding a revised settlement proposal. The revised settlement incorporates certain changes to the previous settlement agreement dated February 18, 1976. The principal revision is a reduction in Arkla's base cost of gas from 26.14 to 26.08 cents per Mcf.

Any person wishing to do so may submit comments in writing concerning Arkla's revised settlement agreement. All such comments should be submitted to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 17, 1976. Copies of the revised settlement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31972 Filed 11-1-76; 8:45 am]

[Docket Nos. E-8250 and ER76-110]

ARKANSAS POWER AND LIGHT CO.

Certification of Proposed Settlement Agreement

OCTOBER 26, 1976.

Take notice that on October 7, 1976, a proposed settlement agreement resolving the issues in Docket No. E-8250 and Docket No. ER76-110 was certified to the Commission by Presiding Administrative Law Judge Graham W. McGowan (Docket No. E-8250) and Presiding Administrative Law Judge Samuel Kanell (Docket No. ER76-110).

The proposed settlement agreement is intended to resolve all issues in both Docket Nos. E-8250 and ER76-110.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 1, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31985 Filed 11-1-76; 8:45 am]

[Docket No. E-8137 and Docket No. E-8217]

BOSTON EDISON CO. ET AL.

Compliance Filing

OCTOBER 27, 1976.

Take notice that on October 6, 1976, Boston Edison Company tendered for filing a revised rate schedule filed in compliance with the Commission's order of September 7, 1976, which approved a Stipulation and Settlement in the above-captioned proceedings.

Any person wishing to do so may file comments concerning the compliance filing. All such comments should be submitted in writing to the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 8, 1976. The Commission will consider all comments in determining the proper action to be taken.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31980 Filed 11-1-76;8:45 am]

[Docket No. RP76-85]

CITIES SERVICE GAS CO.

Declaratory Order Denying Rate Base Treatment for Certain Advances and Granting Intervention

OCTOBER 26, 1976.

On April 12, 1976, Cities Service Gas Company (Cities Service) filed a petition for a declaratory order determining whether rate base treatment will be allowed for advances made pursuant to an advance payment contract executed on December 31, 1975, but after 10:49 a.m., EST. The Commission herein orders that rate base treatment not be given to such advances.

In its petition, Cities Service states that prior to 10:49 a.m., EST., December 31, 1975, Cities Service reached an advance payment agreement with Belco Petroleum Company (Belco). A contract was signed on December 31, 1975, but after 10:49 a.m., EST.

The Commission finds that rate base treatment should not be permitted for advances Cities Service may make under the Belco contract. On January 30, 1976, Cities Service filed a petition for rehearing of the Commission's December 31, 1975, order¹ terminating the advance payment program. In that petition, Cities Service asked that rate base treatment be allowed for advances made pursuant to contracts executed prior to midnight, December 31, 1975, rather than 10:49 a.m., EST, December 31, 1975. On February 27, 1976, the Commission issued an order² denying Cities Service's request and amended Ordering Paragraph C of the December 31, 1975, order to read as follows:

¹ Accounting and Rate Treatment of Advances Included in Account No. 166, Advances for Gas Exploration, Development and Production, Docket Nos. R-411 and RM74-4, order issued December 31, 1975.

² Accounting and Rate Treatment of Advances Included in Account No. 166, Advances for Gas Exploration, Development and Production, Docket Nos. R-411 and RM74-4, order issued February 27, 1976.

(c) Except as provided in Ordering Paragraph (B) above with respect to Alaskan advances, the advance payments program shall expire as of 10:49 a.m., EST, on December 31, 1975, the time and date of this order such that rate base treatment shall not be permitted for advances made pursuant to contracts executed after the time and date of issuance of this order. . . .³

In explaining its action, the Commission said that its intent in issuing the December 31, 1975, order "was to terminate the advance program as of the time and date of the order such that advances made pursuant to contracts executed after the time and date of the December 31, 1975, order would be denied rate base treatment."⁴

The Commission, thus, intended to establish and has established a simple, administrable test: an advance may be included in rate base only if it was made pursuant to a contract executed prior to 10:49 a.m., EST, December 31, 1975. Advances made in accordance with the Cities Service-Belco contract cannot meet that test.

Cities Service requests that if the Commission finds that the Belco contract had to be executed by 10:49 a.m., EST, December 31, 1975, for rate base treatment to be allowed, an exception should be granted "because the parties could have signed the agreement prior to 10:49 a.m., EST, on December 31 if they had been aware the Commission was going to terminate the advance payment program at 10:49 a.m., EST." This request for an exception shall be denied. In its February 27, 1976, order, the Commission stated that the purpose of establishing the time and date of issuance of the December 31, 1975, order as the cutoff point "was to prevent a last minute execution of new contracts and contract amendments by parties after such parties had read the Commission's order."⁵ To grant Cities Service's request for an exception would thus subvert the very purpose of establishing 10:49 a.m., EST, December 31, 1975, as the cutoff.

Public notice of Cities Service's April 12, 1976, petition was issued on April 20, 1976, with protests and petitions to intervene due on or before May 7, 1976. An April 19, 1976, Belco filed a petition to intervene. Having reviewed the petition, the Commission believes that Belco has sufficient interest in the proceedings to warrant intervention.

The Commission finds: (1) Good cause exists to deny rate base treatment for advances made pursuant to the December 31, 1975, Cities Service-Belco contract.

(2) It is desirable and in the public interest to allow Belco to intervene in this docket.

The Commission orders: (A) Rate base treatment shall be denied for advances made pursuant to the December 31, 1975, Cities Service-Belco contract.

(B) Belco is hereby permitted to intervene in this docket subject to the rules

³ Ibid at 17.

⁴ Ibid at 11.

⁵ Ibid.

and regulations of the Commission: *Provided, however*, That participation of such intervenor shall be limited to matters affecting asserted rights and interests as specifically set forth in the petition to intervene; and *Provided, further*, That the admission of such intervenor shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31999 Filed 11-1-76;8:45 am]

[Docket No. RP72-142; PGA77-1]

CITIES SERVICE GAS CO.

Proposed Changes in FPC Gas Tariff

OCTOBER 22, 1976.

Take notice that Cities Service Gas Company (Cities Service) on October 7, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Second Revised Volume No. 1. Cities Service states that the proposed changes are based on increased purchase gas costs which will result from filings by its pipeline suppliers, Arkansas Louisiana Gas Company (Arkla), Oklahoma Natural Gas Gathering Corporation (ONGG) and Transwestern Pipeline Company (Transwestern). The proposed increase would produce an increase in jurisdictional revenues of \$17,533,962, based on sales volumes for the year ended August 22, 1976.

By letter dated September 24, 1976, Arkla filed Sixth Revised Sheet No. 185 to its FPC Gas Tariff, Original Volume No. 3, to track increases in its purchased gas costs and a surcharge adjustment to clear the balance in its Gas Cost Adjustment Account and to recover over a twelve-month period the increase in such balance which will result from unrecoverable purchased gas costs attributable to producer increases under Opinion No. 770. Such Arkla rate is to become effective November 1, 1976.

By letter dated September 30, 1976, ONGG filed Amended Eleventh Revised Sheet No. 1, to flow through the increase in the system cost of purchased gas as a result of producer increases because of Opinion Nos. 770 and 742-A and a special surcharge to recover, over a twelve-month period, the increase in its unrecovered purchased gas cost account attributable to producer increases under Opinion No. 770 through October 26, 1976. Such ONGG rate is to become effective October 27, 1976.

By letter dated September 27, 1976, Transwestern filed Fifth Revised Sheet Nos. 5 and 6 to its FPC Gas Tariff, Second Revised Volume No. 1, to track increases in its purchased gas costs from its suppliers due to Opinion No. 770 and a special surcharge to recover, over a twelve-month period, the amount

of uncovered purchased gas costs attributable to Opinion No. 770 increases through October 26, 1976. Such Transwestern rate is to become effective October 27, 1976.

These increases by Arkla, ONGG and Transwestern have not yet been approved by the Commission.

Cities Service states that copies of its filing were served on all jurisdictional customers, interested state commissions and all parties to the proceeding in Docket Nos. RP72-142 and RP76-135.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before November 1, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become parties must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31991 Filed 11-1-76;8:45 am]

[Docket No. CP73-329; PGA77-1]

CHATTANOOGA GAS CO.

Proposed PGA Rate Adjustment

OCTOBER 22, 1976.

Take notice that on October 4, 1976, Chattanooga Gas Company, A Division of Jupiter Industries, Inc., (Chattanooga) tendered for filing proposed changes to Original Volume No. 1 of its FPC Gas Tariff to be effective on October 27, 1976, consisting of the following revised tariff sheets:

Twentieth Revised Sheet No. 6.

Chattanooga states that the sole purpose of this Revised Tariff Sheet is to adjust Chattanooga's LNG rates pursuant to the PGA provision in Section 5 of the General Terms and Conditions of its FPC Tariff to reflect increased purchased gas costs resulting from PGA rate increases by its suppliers, Southern Natural Gas Company, (Southern) in Docket No. RP73-64 and East Tennessee Natural Gas Company, (East Tennessee) in Docket No. RP71-15.

Chattanooga states that Southern's and East Tennessee's filings are pursuant to and in accordance with the Commission's Opinion No. 770 and Order Modifying Opinion No. 770 issued September 22, 1976.

Chattanooga requests that its Twentieth Revised Sheet No. 6 be made effective on October 27, 1976, the proposed effective date of the underlying increases by Southern and East Tennessee.

Chattanooga states that copies of the filing have been mailed to all of its jurisdictional customers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 1, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31992 Filed 11-1-76;8:45 am]

[Docket No. CP76-489]

COLORADO INTERSTATE GAS CO. v. W. R. GRACE AND CO.

Extension of Time

OCTOBER 22, 1976.

On October 18, 1976, W. R. Grace and Company filed a motion to extend the time within which it must answer a complaint filed August 12, 1976, by Colorado Interstate Gas Company, in the above-designated proceeding.

Upon consideration, notice is hereby given that the time within which W. R. Grace and Company must file its answer to the complaint is extended to and including November 22, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31998 Filed 11-1-76;8:45 am]

[Docket No. E-8650]

COLUMBUS AND SOUTHERN OHIO ELECTRIC CO.

Extension of Time

OCTOBER 26, 1976.

On October 14, 1976, the City of Westerville filed a motion to extend the date for filing Briefs on Exceptions to the Initial Decision, issued September 24, 1976, in the above-designated proceeding.

Upon consideration, notice is hereby given that the date for filing Briefs on Exceptions to the Initial Decision in this proceeding is extended to and including November 23, 1976, and the date for filing Briefs Opposing Exceptions is extended to and including December 13, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31955 Filed 11-1-76;8:45 am]

[Project No. 659]

CRISP COUNTY, GEORGIA, POWER COMMISSION

Extension of Time

OCTOBER 22, 1976.

On October 4, 1976, the Crisp County, Georgia, Power Commission filed a motion for an extension of time to complete its application for a new license in the above-designated proceeding.

Upon consideration, notice is hereby given that an extension of time is granted to and including January 31, 1977, within which the application for a new license must be completed.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31995 Filed 11-1-76;8:45 am]

[Docket No. RP72-134; (PGA77-1)]

EASTERN SHORE NATURAL GAS CO.

Purchased Gas Cost Adjustment to Rates and Charges

OCTOBER 27, 1976.

Take notice that Eastern Shore Natural Gas Company (Eastern Shore) on October 12, 1976, tendered for filing Thirty-Fourth Revised Sheet No. 3A Superseding Substitute Thirty-Third Revised Sheet No. 3A and Thirty-Fourth Revised PGA-1 to its FPC Gas Tariff, Original Volume No. 1. These revised tariff sheets, to be effective October 27, 1976, will increase the commodity or delivery charges of Eastern Shore's Rate Schedules CD-1, CD-E, E-1, I-1 and PS-1 by \$.005 per Mcf. These increases reflect corresponding increases by Transcontinental Gas Pipe Line Corporation (Transco), Eastern Shore's sole supplier, in its Special PGA Tracking Rate Filing of September 27, 1976, pursuant to FPC Opinion No. 770.

Pursuant to § 154.51 of the Regulations under the Natural Gas Act, Eastern Shore respectfully requests waiver of the notice requirements of section 154.22 of those regulations and of section 20.2 of the General Terms and Conditions of its Tariff, to the extent necessary, to permit the tariff sheets submitted to become effective as of October 27, 1976, to coincide with the effective date of Transco's rate changes. In support thereof, Eastern Shore states that Transco's September 27, 1976, filing of its revised tariff sheets prohibited it from preparing its computations and revised tariff sheets in time to comply with the applicable notice requirements.

Eastern Shore states that copies of the filing have been mailed to each of the Company's jurisdictional customers and to interested State Commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE, Washington, DC, 20426, in

accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (10 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 11, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31982 Filed 11-1-76;8:45 am]

[Docket Nos. CP75-96, et al.]

EL PASO ALASKA COMPANY, ET AL.
Extension of Time

OCTOBER 19, 1976.

On October 7, 1976, Alcan Pipeline Company filed a motion for an extension of time within which to file rebuttal evidence in response to the Staff Supplement to the FEIS, in the above designated proceeding.

Upon consideration, notice is hereby given that the date within which to file rebuttal evidence is extended to and including October 19, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31969 Filed 11-1-76;8:45 am]

[Docket Nos. CP75-360; RP76-139]

EL PASO NATURAL GAS CO.
Tariff Filing

OCTOBER 26, 1976.

Take notice that on October 7, 1976, El Paso Natural Gas Company ("El Paso") tendered for filing, pursuant to Part 154 of the Commission's Regulations Under the Natural Gas Act, the following revised tariff sheets to its FPC Gas Tariff:

Original Volume No. 1

Fourth Revised Sheet No. 63-C.6

Third Revised Volume No. 2

Fourth Revised Sheet No. 1-M.6

Original Volume No. 2A

Fourth Revised Sheet No. 7-MM.6

El Paso states that on August 19, 1976, it filed with the Commission a Report and Notice of Change in Surcharge Rate of Special Operating Arrangements conducted under temporary authorization issued July 9, 1975, at Docket Nos. CP75-360, et al.¹ Such filing contained

¹ The special operating arrangements between El Paso, Pacific Gas and Electric Company ("PGandE"), and Southern California Gas Company ("SoCal") provide for the protection of service to the Priority 1 and 2 requirements of El Paso's EOC customers during the 1975-76 and 1976-77 heating seasons and thereafter.

(i) El Paso's report of actual revenues and costs incurred under the special operating arrangements in protecting Priority 1 and 2 service to its east-of-California ("EOC") customers during the 1975-76 winter season and a plan of recovery of deficient revenues;² and (ii) a notice of change in the surcharge rate on scheduled Priority 1 and 2 deliveries to El Paso's EOC customers during the 1976-77 winter season as necessary to recoup such deficient revenues, together with those actual and estimated costs associated with the special operating arrangements which have been or are projected to be incurred during the period May 1, 1976, through April 30, 1977.³

El Paso further states that by letter order issued September 30, 1976, at Docket No. RP76-139, the Commission rejected El Paso's tariff proposal to adjust the special operating arrangements surcharge rate during the 1976-77 winter season for failure to comply with Section 11.3E(d) of the General Terms and Conditions of El Paso's FPC Gas Tariff, Original Volume No. 1. Specifically, the Commission noted that such Section provides that El Paso will recover or return actual undercollections or overcollections of revenues under the special operating arrangements on the basis of a report setting forth actual costs and actual revenues to be filed 60 days after the end of each winter season and through an adjustment in the special operating arrangements surcharge rate applicable in the following winter season.

El Paso states that the instant tender is designed to:

- (i) modify and clarify the currently effective tariff provision respecting the recovery of special operating arrangements costs through the determination of the surcharge rate to be applied thereunder during each winter season; and
- (ii) change the surcharge rate consistent with the modified tariff provisions.

With respect to (i), El Paso states that it proposes to modify the tariff language concerning the determination and appli-

² Such report reflected actual costs incurred for the protection of EOC Priority 1 and 2 service through the special operating arrangements during the 1975-76 winter season of \$10,196,246 and actual revenues collected pursuant to the 1975-76 winter season special operating arrangements surcharge of \$9,438,511 resulting in a net revenue deficiency of \$757,735 to be recovered by including such deficiency in the determination of the surcharge rate to be applied during the 1976-77 heating season.

³ In order to recoup the 1975-76 revenue deficiency and the actual and estimated costs associated with providing the special operating arrangements protection of EOC Priority 1 and 2 service during the 1976-77 heating season, El Paso proposed to adjust the surcharge rate applicable to the special operating arrangements from the currently effective 8.37¢ per Mcf to 14.36¢ per Mcf, effective as of November 1, 1976.

cation of the surcharge rate in order to clarify such language and eliminate any confusion associated therewith. Accordingly, Section 11.3E of the General Terms and Conditions of El Paso's Volume No. 1 tariff and Section 3.3E, Priorities and Curtailments, of El Paso's Volume Nos. 2 and 2A tariff are proposed to be modified.

In regards to (i) above, El Paso states during the period May 1, 1976, through April 30, 1977, El Paso has incurred and projects that it will incur pursuant to the special operating arrangements costs in excess of those costs experienced in providing the special operating arrangements for protection of EOC Priority 1 and 2 service during the 1975-76 winter season. Such increased costs include (1) gas retention costs of some \$13,032,141 which have been and will be experienced during the period May 1, 1976, through April 30, 1977, and (2) a total of \$2,261,198 attendant to the reduction and diversion of deliveries of gas to PGandE (\$739,073) and SoCal (\$1,522,125) respectively. Additionally, El Paso experienced a deficiency of \$757,735 in revenues collected under the special operating arrangements surcharge in effect during the 1975-76 winter heating season. Based upon all such costs, El Paso proposes to increase the currently effective surcharge rate of 8.37¢ per Mcf to 14.36¢ per Mcf, effective on November 1, 1976, in accordance with the proposed tariff provision.

El Paso has requested that the Commission grant waiver of any and all provisions of its Regulations as may be necessary, in order that the tendered tariff sheets be accepted for filing and made effective on November 1, 1976.

El Paso states that copies of the instant filing have been served upon all parties of record in Docket No. RP75-360 and otherwise, upon all affected customers and interested state regulatory commissions.

Any person desiring to be heard or to make any protest with reference to said tariff filing should, on or before November 1, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations Under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31959 Filed 11-1-76;8:45 am]

[Docket No. CP75-362]

EL PASO NATURAL GAS CO.**Intent To Act**

OCTOBER 22, 1976.

El Paso Natural Gas Company on September 23, 1976, filed a petition for waiver of procedure under §§ 2.80 and 2.82 of the Commission's Regulations relating to environmental impact and a motion for the establishment of a shortened procedure. The Commission intends to issue an order on this matter in the near future. Therefore, the motion shall not be deemed denied under § 1.12(e) of the Commission's Rules.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31997 Filed 11-1-76; 8:45 am]

[Docket No. CP76-161]

FALFURRIAS, CITY OF, TEXAS (APPLICANT); NATURAL GAS PIPELINE CO. OF AMERICA (RESPONDENT)

Order Denying Motion for Ruling on Application for 60-Day Emergency Sale

OCTOBER 19, 1976.

On November 13, 1975, the City of Falfurrias, Texas (Falfurrias), filed an application in Docket No. CP76-161 pursuant to Section 7(a) of the Natural Gas Act asking the Commission to direct Natural Gas Pipeline Company of America (Natural) to sell the volumes of natural gas to Falfurrias which are necessary to fulfill its residential and small commercial needs not to exceed 1,200 Mcf per day. Although Falfurrias represented in its application that "the Railroad Commission [of Texas] has ordered Lo-Vaca [Gathering Company] to commence service on an emergency basis for human needs pending Federal Power Commission action on this application," it also asked the Commission to grant Natural "emergency authority to commence a 60-day sale pending Commission action on this Application." Thereafter, the Commission gave and published notice of Falfurrias' application; Natural filed an answer opposing the application because of the shortage of natural gas on its system, asserting that it has not been able to accept new customers since curtailments began in 1970; and seven petitions to intervene were filed. By order issued June 23, 1976, the Commission, among other matters, permitted the interventions and set the matter to hearing.

On August 25, 1976, Falfurrias filed a document entitled, "Motion For Ruling On Application For 60-Day Emergency Sale Pursuant To Section 157.22 Of The Commission's Regulations" asserting that the Commission failed to rule on the request in its application for an emergency sale, and asserting further, as grounds for its motion,

The Commission, by its orders issued on August 5 and October 3, 1975, and most recently on July 30, 1976, in Mobil Oil Corporation, Docket No. RI72-250, precluded Mo-

bil from continuing to supply Falfurrias' total needs. Falfurrias obtained an emergency order from the Texas Railroad Commission on this application. The Applicant asserts that the current supply is unstable and therefore unsatisfactory, and respectfully requests the Federal Power Commission to grant an emergency sale by Natural.¹

Natural, on September 1, 1976, and intervenor Northern Illinois Gas Company (Northern Illinois), on September 2, 1976, filed separate answers opposing the motion on the ground, among others, that the Commission can direct a natural gas company under Section 7(a) to commence a sale of natural gas to a municipality only "after notice and opportunity for hearing", and that the hearing in this proceeding was scheduled to commence on October 13, 1976. Furthermore, they assert, § 157.22 of the Commission's Regulations under the Natural Gas Act authorizes natural gas companies to provide 60-day emergency services without first obtaining Commission approval, but does not require any party to perform any service involuntarily.

The Commission staff, on September 8, 1976, filed an answer in opposition to the motion asserting that § 157.22 is inapplicable to Falfurrias' situation. But treating the motion as an application under § 157.17 for a temporary certificate of public convenience and necessity in the case of an emergency, the staff points out that Falfurrias has not shown any facts indicating the existence of an emergency.

Section 7(a) of the Natural Gas Act provides in pertinent part,

Whenever the Commission, after notice and opportunity for hearing, finds such action necessary or desirable in the public interest, it may by order direct a natural-gas company to . . . sell natural gas to, any person or municipality engaged . . . in the local distribution of natural . . . gas to the public . . .

If Natural does not wish to provide service to Falfurrias, it is clear that the Commission cannot order it to do so under Section 7(a) until the hearing scheduled to commence on October 13, 1976, is completed and the record of that hearing is ultimately brought before the Commission in the course of administrative process.

The combined effect of Sections 7 (c) and (e) of the Natural Gas Act, insofar as is pertinent, is that the Commission likewise cannot certificate a sale of natural gas without first holding a hearing, except as set out in the last proviso of Section 7(c), as follows:

Provided, however, That the Commission may issue a temporary certificate in cases of emergency, to assure maintenance of adequate service or to serve particular customers, without notice or hearing, pending the determination of an application for a

¹ We will not reopen the orders in *Mobil Oil Corporation*, Docket No. RI72-250, on such a bare allegation at this late stage. If Falfurrias' interests were directly affected by that proceeding, it should have sought to intervene pursuant to § 1.8 of the Commission's Rules of Practice and Procedure.

certificate, and may by regulation exempt from the requirements of this section temporary acts or operations for which the issuance of a certificate will not be required in the public interest.

Certification of natural gas service under the Natural Gas Act contemplates a consensual arrangement between a prospective seller and a prospective buyer, together with a hearing to determine, among other matters, whether that arrangement "is or will be required by the present or future public convenience and necessity". Section 157.22 of the Commission's Regulations Under the Natural Gas Act, on which Falfurrias relies, provides an exemption from the certification process for temporary acts or operations which are "necessary to assure maintenance of adequate natural gas service where interruption or serious curtailment of service exists or is threatened because of failure of facilities or failure or curtailment of supply or unusual and unexpected demand on such facilities or supply. . . ." While such temporary acts or operations may be undertaken without securing prior Commission authorization, they too contemplate a consensual arrangement, as is evidenced by the fact that §§ 157.22(c) (2) and (e) (4) require the furnishing of information pertaining to the "rate schedule, contract or service agreement covering the sales or service". It is clear, therefore, that Falfurrias cannot avail itself of the exemption provided by § 157.22, first, because there is no consensual arrangement between it and a prospective seller of natural gas, and second, because there is no apparent emergency within the meaning of the regulation.²

Treating Falfurrias' application and motion as an application for a temporary certificate of public convenience and necessity in the case of an emergency, we find that it has not established "clearly and specifically the exact character of the emergency", as is required by § 157.17 of the Commission's Regulations under the Natural Gas Act. Even if Falfurrias should make such a showing, it cannot utilize § 157.17 because that regulation provides for the issuance of temporary certificates pending determinations on applications for permanent certificates. This case does not involve an application for a certificate of public convenience and necessity, nor is there

² It was unnecessary for Falfurrias to include a request for "emergency authority to commence a 60-day sale" in its application or to file the motion under consideration because utilization of the exemption provided by § 157.22 does not require prior Commission authorization. But since Falfurrias has filed the motion, it has the burden as the moving party of establishing the existence of an emergency within the meaning of the regulation. And we find that the bare assertion that its "current supply is unstable and therefore unsatisfactory" does not satisfy that burden, particularly since Falfurrias has been receiving natural gas service from Lo-Vaca Gathering Company and apparently will continue to receive such service pending the outcome of this proceeding.

authority under the Natural Gas Act to issue a temporary certificate authorizing a sale to a new customer, *Algonquin Gas Transmission Company v. F.P.C.*, 201 F.2d 334 (1st Cir. 1953). The Commission's rules, Section 1.30(c) do, however, permit the filing of a motion seeking to omit the intermediate decision procedure. If Falfurrias desires to expedite the decision on the merits of this proceeding it may file such a motion and upon proper showing or upon agreement of the parties the intermediate decision may be omitted as set forth in Section 1.30(c).

The Commission orders: The motion filed by the City of Falfurrias, Texas on August 25, 1976, for a favorable ruling "on its application for an emergency 60-day sale pending final action on its Section 7(a) application", is denied.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31978 Filed 11-1-76;8:45 am]

[Docket No. E-7740, et al.]

INDIANA AND MICHIGAN ELECTRIC CO.
Further Extension of Time

OCTOBER 21, 1976.

On October 18, 1976, Indiana and Michigan Electric Company filed a motion to further extend the dates for filing Briefs on Exceptions and Briefs Opposing Exceptions to the Initial Decision, issued August 19, 1976, in the above-designated proceeding.

Upon consideration, notice is hereby given that the date for filing Briefs on Exceptions is extended to and including November 22, 1976, and the date for filing Briefs Opposing Exceptions is extended to and including December 13, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31973 Filed 11-1-76;8:45 am]

[Docket No. ER76-5]

INDIANA & MICHIGAN POWER CO.
Withdrawal From Proceeding

OCTOBER 22, 1976.

Take notice that on October 7, 1976, Ormet Corporation (Ormet) filed a notice of withdrawal of its petition to intervene in the above-captioned proceeding, said petition having been granted by Commission order issued July 30, 1976. Ormet states that it has concluded to withdraw from this proceeding on the basis of (1) a decision of the Public Utilities Commission of Ohio in Case No. 75-060-EL-SLF, concerning service to Ormet by Ohio Power Company, and (2) its belief that its continued participation herein " * * * will impose a strain upon Ormet's continuing business relationship with Ohio Power and will generate significant legal and other expenses."

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal

Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 1, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31994 Filed 11-1-76;8:45 am]

[Docket No. ER76-206]

IOWA ELECTRIC LIGHT AND POWER CO.
Motion for Approval of Settlement Agreement

OCTOBER 27, 1976.

Take notice that on October 18, 1976, Iowa Electric Light and Power Company (Iowa) filed a motion for Commission approval of an attached Stipulation and Settlement Agreement to disposing of the issues in this docket. Iowa states that the proposed settlement rates are designed to recover for Iowa eighty percent of the original rate increase of \$1,402,830 or approximately \$1,122,264 on an annual basis. Iowa further states that the effective date of the settlement rates is March 1, 1976 for all cities except Marathon, Sibley, State Center, Tipton and Vinton, which would have an effective date of March 22, 1976, and the City of Ellsworth which would have an effective date prospectively from the date of Commission approval of the settlement. Iowa also states that it has agreed to refund within 60 days of Commission approval of the settlement the difference between the rates and those currently in effect (except for Ellsworth).

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before November 11, 1976. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31984 Filed 11-1-76;8:45 am]

[Docket No. CS76-39]

GULF ENERGY PRODUCING CO.

Findings and Order After Statutory Hearing Issuing Small Producer Certificate of Public Convenience and Necessity, Terminating Certificates, and Canceling FPC Gas Rate Schedules

OCTOBER 27, 1976.

Gulf Energy Procuring Company (Applicant), a wholly owned subsidiary of

Class "C" pipeline company (Gulf Energy & Development Corporation), has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a small producer certificate of public convenience and necessity and for waiver of the pipeline affiliation prohibition in § 157.40(a)(1) of said Regulations. Applicant states as a basis for its request that it does not sell any gas to its parent corporation nor does its parent purchase gas in any jurisdictional transaction. Applicant adds that its parent's only jurisdictional operation is the gathering of gas for delivery to Tennessee Gas Pipeline Company for which the parent receives a gathering or transportation fee.

Applicant has nine rate schedules on file as shown in the attached Appendix. Sales for the year 1975 totaled 616,080 Mcf at 14.65 psia.

Development's gathering system consists of approximately 120 miles of pipeline of various sizes up to 16-inch, all located in Starr and Zapata Counties, Texas. During 1975, Development transported and delivered 6,282,399 Mcf (at 14.73 psia) to Tennessee through said system (per Development's annual report).

In view of the limited nature of the operations of Gulf Energy & Development Corporation, it is appropriate to issue a small producer certificate to Applicant, conditioned to exclude any sales thereunder to its parent company.

After due notice by publication in the FEDERAL REGISTER, no petition to intervene, notice of intervention or protest to the granting of the application was filed.

At a hearing held on October 20, 1976, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the application submitted in support of the authorization sought herein, and upon consideration of the record.

The Commission finds: (1) Applicant is engaged in the sale of natural gas in interstate commerce for resale for ultimate public consumption subject to the jurisdiction of the Commission and is, therefore, a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) The sales of natural gas hereinbefore described will be made in interstate commerce subject to the jurisdiction of the Commission, and such sales by Applicant are subject to the requirements of subsections (c) and (e) of Section 7 of the Natural Gas Act.

(3) Applicant is able and willing properly to do the acts and to perform the service proposed and to conform to the provisions of the Natural Gas Act and the requirements, rules, and regulations of the Commission thereunder.

(4) Applicant is an independent producer of natural gas who is affiliated with Gulf Energy & Development Corporation, a natural gas pipeline company, and whose total jurisdictional sales on a nationwide basis, together with sales of affiliated producers, were not in excess

of 10,000,000 Mcf at 14.65 psia during the preceding calendar year.

(5) The sales of natural gas by Applicant, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, are required by the public convenience and necessity, and a small producer certificate of public convenience and necessity therefor should be issued as hereinafter ordered and conditioned.

(6) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that the certificates of public convenience and necessity heretofore issued to Applicant should be terminated and that the related FPC gas rate schedules should be canceled.

(7) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that Section 157.40(a)(1) of the Regulations under said Act should be waived insofar as it pertains in this case to Applicant's affiliation with Gulf Energy & Development Corporation.

The Commission orders: (A) A small producer certificate of public convenience and necessity is issued upon the terms and conditions of this order authorizing the sale for resale and delivery of natural gas in interstate commerce by Applicant except for sales to Gulf Energy & Development Corporation, together with the construction and operation of any facilities subject to the jurisdiction of the Commission necessary therefor, all as hereinbefore described and as more fully described in the application in this proceeding.

(B) The certificate granted in Ordering Paragraph (A) above is not transferable and shall be effective only so long as Applicant continues the acts or operations hereby authorized in accordance with the provisions of the Natural Gas Act and the applicable rules, regulations, and orders of the Commission and particularly:

(1) The subject certificate shall be applicable only to all small producer sales as defined in Section 157.40(a)(3) of the Regulations under the Natural Gas Act, except that no sales shall be made pursuant to the subject certificate to Gulf Energy & Development Corporation;

(2) Applicant shall file annual statements pursuant to Section 154.104 of the Regulations under the Natural Gas Act.

(C) The certificate granted in Ordering Paragraph (A) above shall remain in effect for small producer sales until the Commission on its own motion or on application terminates said certificate because Applicant no longer qualifies as a small producer or fails to comply with the requirements of the Natural Gas Act, the regulations thereunder, or the terms of the certificate. Upon such termination, Applicant will be required to file separate certificate applications and individual rate schedules for future sales. To the extent compliance with the terms of this order is observed, the small producer certificate will still be effective as to sales already included thereunder.

(D) With respect to any small producer sale made pursuant to the author-

ization herein, Applicant shall not be relieved from compliance with Section 7(b) of the Natural Gas Act.

(E) The certificates heretofore issued to Applicant for sales proposed to be continued under its small producer certificate are terminated and the related FPC gas rate schedules are canceled as indicated in the Appendix hereto.

(F) Pursuant to Order No. 539-B, Order Clarifying Prior Orders And Amending Section 157 Of The Commission's Regulations Under The Natural Gas Act, Docket No. RM76-8 (issued July 30, 1976), the Commission's Regulations were amended to include new Section 157.41, which requires the following language to be inserted as a condition in all certificates of public convenience and necessity issued on or after July 30, 1976:

All persons making jurisdictional sales pursuant to the authority granted by this certificate are hereby given notice that the contractual obligations between the buyer and the seller are incorporated into the certificate obligations, and that the certificate is further conditioned to require that the seller shall observe the standard of a prudent operator to develop and maintain deliverability from reserves dedicated hereunder.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX

Applicant	Canceled FPC gas rate schedule No.	Terminated certificate docket No.
Gulf Energy Producing Co.	12	CI61-1186
	23	CI64-1373
	4	CI65-1178
	5	CI65-1179
	6	CI65-1180
	7	CI71-110
	28	CI60-323
	19	CI63-925
	10	CI66-883

¹ et al.
² (Operator), et al.

[FR Doc.76-32012 Filed 11-1-76;8:45 am]

[Docket Nos. CI75-119; RI75-5]

JENKINS, WILLIAM A. (OPERATOR), ET AL.

Order Denying Rehearing in Part and Granting Rehearing in Part for the Purpose of Further Consideration

OCTOBER 26, 1976.

On September 1, 1976, William A. Jenkins (Operator), et al. (Jenkins) filed an application for rehearing of our order issued on August 18, 1976, in Docket Nos. CI75-119 and RI75-5. Previously, on May 3, 1976, Jenkins petitioned for an amendment to our order granting Jenkins special relief issued December 24, 1975, to permit it to collect a rate embodying a twenty percent rate of return for sales of gas from certain wells located in the Northwest Enid Field (Breckenridge Pool), Garfield County, Oklahoma.

In our order issued on August 18, 1976, we denied Jenkins' May 3, 1976 petition and ordered Jenkins to file an applica-

tion for a certificate of public convenience and necessity¹ or, in the alternative, to file for waiver of Section 157.40(c)² of the Commission's Regulations in order to make the subject sales under its small producer certificate issued in Docket No. CS76-826 on August 4, 1976. On October 1, 1976, we granted rehearing for purposes of further consideration.

The basis of our August 18, 1976 order was that the subject sales of natural gas do not qualify as small producer sales inasmuch as "the gas reserves relating thereto were acquired by the purchase of developed reserves in place from a large producer".³

Jenkins' first contention in its application for rehearing is that, even though the sales in question are not "small producer sales," the Commission should grant it the special rate of return treatment it requested in its petition. This is nothing more than an unjustified collateral attack on the rate of return prescribed in our December 24, 1975 order granting Jenkins special relief. If Jenkins wants a price for its gas higher than that authorized in our December 24, 1975 order, nothing precludes Jenkins from filing for special relief and proving that its overall costs warrant higher special relief. But, he may not collaterally attack one aspect of the December 24 determination.

Secondly, Jenkins asserts that the sales of gas resulting from its one successful new recompletion in the Keck No. 2 well⁴ are from a "newly discovered reservoir" and therefore Section 157.40(c) has no applicability. We shall grant rehearing for purposes of further consideration of this issue. Since Jenkins has not shown that the subject reservoir is a new reservoir pursuant to Opinion No. 567, we shall require Jenkins to file within thirty days:

(1) copies of all documents filed with or issued by local or State regulatory agencies relating to the discovery of the reservoir from which the gas is produced

(2) a copy of the initial log run in open hole on the subject well.

(3) a copy of the perforating depth control log for the reservoir claimed to be newly discovered.

(4) a copy of the perforation report provided by the company that performed the new perforation.

(5) a copy of the completion report on the new perforation filed with the Oklahoma Corporation Commission.

¹ 18 C.F.R. § 157.23.

² 18 C.F.R. § 157.40(c).

³ Id.

⁴ The hearing record indicates that the Keck No. 2 well recompletion into the upper Mississippi Lime was successful. (Tr. 105) It shall be assumed that this well is the subject to Jenkins' application. The Keck No. 2 was originally drilled in 1964 and commenced production from the Mississippi zone as a flowing oil well on May 8, 1964. (Exhibit No. 10)

⁵ Hugoton-Anadarko Are Rate Proceeding (Committed Acreage), Docket No. AR64-1, et al., 42 FPC 727, 729 (1969).

(6) copies of all monthly production reports (oil/gas/water) prepared since the subject well was recompleted.

Finally, Jenkins asserts that the subject sales are "percentage sales" covered by Section 154.91(e) of the Regulations and therefore no filings are required. This argument is without merit. Jenkins is currently authorized to collect a fixed rate of 26.26 cents per Mcf at 14.65 psia and no other rate.

The Commission orders: (1) Jenkins' application for rehearing is granted in part for the purpose of further consideration with respect to gas from the Keck No. 2 well but is otherwise denied.

(2) Within 30 days of the date of issuance of this order Jenkins shall file the information requested in the text of this order.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31987 Filed 11-1-76;8:45 am]

[Docket No. ER76-813]

JERSEY CENTRAL POWER AND LIGHT CO.

Order Denying Rehearing

OCTOBER 22, 1976.

On September 24, 1976, the Boroughs of Butler, Lavallette, Madison, Pemberton, and Seaside Heights, New Jersey, filed an application for rehearing of the Commission's orders issued August 26, 1976, and September 20, 1976, in the above-captioned docket. The Boroughs argue that the Commission erred in failing to reject Jersey Central Power and Light Company's (Jersey Central) proposed fuel adjustment clause, which provides for the phasing-in of the new base cost of fuel in order to recover allegedly unbilled fuel costs, and that the Commission erred in suspending Jersey Central's proposed wholesale rate increase for one month rather than the maximum suspension period of five months. For the reasons hereinafter stated, the Commission will deny the Boroughs application for rehearing.

In their application for hearing, the Boroughs claim that the Commission erred in failing to reject Jersey Central's fuel clause 'phase-in' as both patently deficient in form by failing to comply with Section 35.14 of the Commission's Regulations and a substantive nullity in constituting retroactive ratemaking citing *Municipal Light Boards v. F.P.C.*, 450 F.2d 1341 (1971). In the September 20, 1976, order, the Commission considered the Boroughs request for rejection of Jersey Central's proposed fuel adjustment clause on the grounds that it provides for phasing-in the new base cost of fuel in order to recover allegedly unbilled fuel costs which the Boroughs argue is in violation of the Commission's Regulations, constitutes retroactive rate-making, and provides for double recovery of fuel costs. The Commission stated in

that order that it believed that the justness and reasonableness of Jersey Central's proposed fuel adjustment clause should be subject to the hearing procedures previously established. The Commission does not believe that Jersey Central's proposed fuel adjustment clause 'phase-in' is patently deficient in form or a substantive nullity so as to warrant rejection as argued by Boroughs. The Commission adheres to its prior determination that the justness and reasonableness of Jersey Central's proposed fuel clause should be subject to the hearing procedures previously established.

In their application for rehearing, the Boroughs argue that the Commission erred in failing to suspend Jersey Central's proposed rate increase for the maximum statutory period of five months and erred in failing to explain the Commission's exercise of its suspension discretion. The Boroughs argue that the Commission failed to take note or consider the Borough's "Petition, Complaint, Motion and Request" filed on August 18, 1976, in the Commission's determination of the one month suspension period in the August 26, 1976, order. However, the Commission considered the arguments of the Boroughs and reaffirmed its one month suspension in the September 20, 1976, order.¹ The Commission has examined Jersey Central's filing, the pleadings filed by the Boroughs, the other intervenor, Alleghany Electric Cooperative, Inc., and Jersey Central's answers thereto, in determining that a one month suspension period is proper. The Commission once again adheres to that determination herein and accordingly denies the Boroughs application for rehearing. The length of the suspension period is within the Commission's discretion. *Municipal Light Boards v. F.P.C.*, 450 F.2d 1341, 1352 (1971).

The Commission finds: Good cause exists to deny the Boroughs application for rehearing.

The Commission orders: (A) The Boroughs application for rehearing filed September 24, 1976, is hereby denied.

(B) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31993 Filed 11-1-76;8:45 am]

[Docket No. RP73-97 (PGA 76-4) RP 76-93]

KENTUCKY WEST VIRGINIA GAS CO.

Tender of Work Paper

OCTOBER 26, 1976.

Take notice that by letter dated September 30, 1976, Kentucky West Virginia Gas Company (Kentucky) tendered for filing a work paper labeled Exhibit "A" evidencing the conversion of the Deferred Cost Adjustment Mcf figures on Seventh Revised Sheet No. 12-E of Kentucky's FPC Gas Tariff, Original Volume

No. 1, to dekatherm figures on Substitute Original Sheet No. 27 of Kentucky's FPC Gas Tariff, First Revised Volume No. 1, according to Kentucky. Kentucky states that it had previously filed on September 23, 1976, a Purchased Gas Cost Adjustment as authorized in Opinion No. 770, to be made effective on October 31, 1976, as well as a motion to make effective on the same date the rates contained in Docket No. RP76-93.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before November 5, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31968 Filed 11-1-76;8:45 am]

[Docket No. E-9259]

LONG ISLAND LIGHTING CO.

Supplemental Order Authorizing the Issuance of Short-Term Promissory Notes

OCTOBER 26, 1976.

Security issues: Before Commissioners: Richard L. Dunham, Chairman; Don S. Smith, John H. Holloman III, and James G. Watt.

By order issued April 4, 1975, the Commission, pursuant to Section 204 of the Federal Power Act, authorized the Long Island Lighting Company (Applicant) to issue unsecured promissory notes to commercial banks in the aggregate principal amount not to exceed \$175 million and to issue commercial paper in an amount not to exceed \$25 million, with final maturity dates on all notes being not later than September 30, 1977.

The Applicant by supplemental application filed on September 9, 1976, pursuant to section 204 of the Federal Power Act, seeks authorization to have the principal amount of commercial paper which may be outstanding at any one time increased from \$25 million to \$50 million. The maximum amount of unsecured promissory notes that the Applicant might have outstanding would remain at \$175 million but at no time would the aggregate principal amount of promissory notes to commercial banks and commercial paper outstanding exceed \$200 million. In addition, Applicant seeks to have the limitation on maturity dates of the securities extended so that such promissory notes and commercial paper might be issued through and including December 31, 1977, with final maturity dates of all such notes being not later

¹ 18 CFR 154.91(e).

¹ See mimeo p. 2.

than September 30, 1978. All other terms and conditions previously authorized shall remain in full force and effect.

The net proceeds from the issuance of the securities will be used for construction purposes and the retirement of other debt.

The promissory notes are to be issued pursuant to lines of credit established by banking institutions in an aggregate amount not to exceed \$175 million at any one time outstanding. The notes will mature in nine months or less from the date of issuance, provide for the Applicant to have the right of prepayment and carry an interest rate which is generally equal to 110% of the prime rate in effect at the lending bank to substantial and responsible commercial borrowers. These notes are not intended for resale to the public; and no fee of any kind, commission or remuneration is paid to any third person for negotiating their issuance and sale.

The commercial paper will be issued through any dealer in commercial paper in an aggregate amount not to exceed \$50 million at any one time outstanding. The maturity of the commercial paper varies, as does the interest, but in any event may not mature more than nine months after issuance. The commercial paper is sold by the dealers to their customer-investors. The dealers currently receive a fee calculated at 1/8 of 1 percent per annum of the amounts borrowed, on a discount basis, as compensation for their services. The fee received is that which is customarily charged for such services and the current condition of the money market. Except for this fee to dealers, no finders fee or other fee, commission remuneration is to be paid in connection with the issuance and sale of the commercial paper.

Written notice of the application has been given to the New York Public Service Commission and to the Governor of that State. Notice was also given by publication in the Federal Register, stating that any person desiring to be heard or to make any protest should on or before October 8, 1976, file petitions or protests with the Federal Power Commission, Washington, D.C. 20426. No protest, petition or request to be heard in opposition to the granting of the application has been received.

The Commission finds: (1) The proposed amendment to the Commission's order issued April 4, 1975, is reasonable and appropriate for the purposes of the Federal Power Act.

(2) The period of public notice given in this matter is reasonable.

The Commission orders: (A) The Commission's order issued April 4, 1975, is hereby amended to authorize Applicant to increase the aggregate amount of commercial paper which may be outstanding at any one time from \$25 million to \$50 million; the maximum amount of promissory notes which Applicant may have outstanding at any one time will remain at \$175 million; provided, however, that at no time would the aggregate principal amount of both promissory notes and commercial paper outstanding at any one time exceed \$200

million. In addition, all notes shall be issued on or before December 31, 1977, with final maturity dates of not later than September 30, 1978.

(B) This authorization is expressly conditioned that the amount of commercial paper outstanding at any one time shall not exceed 25 percent of the Applicant's gross operating revenues for the preceding twelve months of operation.

(C) All other terms and conditions as set forth in the Commission's order issued April 4, 1975, shall remain in full force and effect.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31956 Filed 11-1-76;8:45 am]

[Docket No. RP76-31]

LOUISIANA-NEVADA TRANSIT CO.

Order Adding Certain Producers To Show Cause Proceeding

OCTOBER 26, 1976.

On March 22, 1976, the Commission issued an order requiring producers in the Walker Creek Field to show cause why they should not be held subject to Federal Power Commission jurisdiction and certified pursuant to Section 7 of the Natural Gas Act.

Ordering Paragraph (B), *mimeo* at 4, of the Commission's March 22, 1976, order directed LNT to file a list of the names and addresses of the Walker Creek producers associated with the court decision, *Louisiana Nevada Transit Company v. Dalton J. Woods, et al.* (case No. T 73-C-43 U.S. District Ct. W. Dist. Arkansas, issued June 9, 1975; affirmed *LNT v. Dalton J. Woods, et al.* CCA-8, No. 75-1499, March 15, 1976). By a May 17, 1976, order the Commission identified, pursuant to Ordering Paragraph (A) of the March 22, 1976, order, those Walker Creek producers which were in the above-mentioned court case and made them parties to this docketed proceeding.

For purposes of determining whether the gas sold to LNT from the Walker Creek producers is jurisdictional, the Commission wishes to make all Walker Creek Field producers who have sold gas to LNT parties to the instant proceeding, including those not involved in the previously mentioned court litigation. For that reason, the Commission hereby identifies the producers listed in Appendix A as parties to this proceeding.

The present parties to this proceeding plan to circulate in early December 1976, a draft stipulation of facts pertinent to the jurisdiction question. An informal conference was held at the Commission on September 22 and 23, 1976, for the purpose of determining the facts needed to be included in that stipulation. A copy of the December 1976 draft stipulation will be sent to the parties listed in Appendix A.

The Commission orders: (A) The producers listed in Appendix A are hereby identified as parties to this proceeding.

(B) Said producers are hereby ordered to show cause why they should not be

subject to this Commission's jurisdiction under the Natural Gas Act and the Commission's Rules and Regulations promulgated thereunder, particularly Sections 4, 5 and 7, and why their sales to LNT should not be certified under Section 7.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

NAME AND ADDRESS ON COMPANY RECORDS

Templeton and White; J. C. Templeton, P.O. Box 1814, Shreveport, Louisiana 71166. James F. White, 1408 Mid South Towers, Shreveport, Louisiana 71102.

Bodeaw E. Kosek; Ernest Kosek, 501 Merchants National Bank, Cedar Rapids, Iowa 52401.

K. W. B. Oil Property Management Inc., K. W. B. Oil Property Mgmt. Inc., 1125 National Bank of Tulsa Bldg., Tulsa, Oklahoma 74103.

[FR Doc.76-32013 Filed 11-1-76;8:45 am]

[Docket No. ER76-925]

MONTAUP ELECTRIC CO.

Filing

OCTOBER 26, 1976.

Take notice that Montaup Electric Company ("Montaup") on September 28, 1976 tendered for filing an agreement made as of October 1, 1976, with Maine Public Service Company ("Maine Public Service"). Under the agreement Montaup assigns to Maine Public Service approximately 6 megawatts of Montaup's share of its entitlement to New Brunswick Power under the Second Supplement to the New Brunswick Participation Agreement dated as of December 1, 1971. The assignment by Montaup to Maine Public Service is for the period November 1, 1976 through January 31, 1977. Maine Public Service agrees to make all payments and discharge all obligations, duties and liabilities with respect to the assigned entitlement.

Copies of the filing were served upon Maine Public Service and the Massachusetts Department of Public Utilities.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capital Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 3, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies for this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31965 Filed 11-1-76;8:45 am]

[Docket No. RI75-109]

MURPHY OIL CORP.**Holding Decision in Abeyance**

OCTOBER 22, 1976.

On May 5, 1976, Presiding Administrative Law Judge Israel Convisser issued an initial decision in this proceeding. Briefs have been filed with the Commission and that decision is awaiting review by the Commission. The outcome of this proceeding will apparently be governed by our decision in Phillips Petroleum Company, Opinion No. 750. That opinion is now before the Tenth Circuit Court of Appeals (*Phillips Petroleum Co. v. F.P.C.*, No. 76-1216) for review. Because of the similarity between these proceedings the Commission will hold in abeyance a final decision in this docket until judicial review of Phillips is completed.

While the decision awaits final review, the rights of all parties will be protected. Murphy will continue to collect the higher rate it has applied for, these rates will be collected subject to refund. The consumer will be protected because Murphy's obligation to make refunds will continue.

By the Commission.¹KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31971 Filed 11-1-76; 8:45 am]

[Project No. 2694]

NANTAHALA POWER AND LIGHT CO.**Order Issuing License (Minor)**

OCTOBER 20, 1976.

On January 2, 1969, Nantahala Power and Light Company (hereinafter Nantahala) filed an application for a minor license under Sections 4(e) and 10(i) of the Federal Power Act (Act), 16 U.S.C. § 797(e) and § 803(i), for the Queens Creek Project, FPC No. 2694. The application was supplemented on March 28, 1969, September 14, 1970, and October 26, 1972. Submittal of the application followed reversal by the Commission of a previous finding that the project was not jurisdictional.

Procedural History. On November 8, 1946, Nantahala filed, pursuant to Section 23(b) of the Federal Power Act (Act), 16 U.S.C. § 817, a declaration of intention to construct a hydroelectric project on Queens Creek, a tributary of the Nantahala River, in Macon County, North Carolina. On February 18, 1947, the Commission issued a formal finding² that the interests of interstate or foreign commerce would not be affected by the proposed construction and that no lands or reservations of the United States would be involved.

Having determined that the Commission would not assert jurisdiction over the project, Nantahala began construction in July, 1947, and closure of the dam was effected in December, 1948. Electric generation at the project commenced on January 28, 1949, and operation has continued since the latter date.

The Queens Creek Project was placed in a new perspective in 1965 with the decision by the United States Supreme Court in *FPC v. Union Electric Co.*, 381 U.S. 90 (1965) (the Taum Sauk case). In Taum Sauk, the court held that the word "commerce," as used in Section 23(b) of the Act, does not refer solely to commerce on navigable waters, and that a hydroelectric project must therefore be licensed pursuant to Section 23(b) when the electric power generated at that project affects a system of interstate transmission of such power.

On July 18, 1966, the Commission issued an order in which it found that it was not foreclosed from requiring licenses pursuant to Taum Sauk for certain of Nantahala's projects, including the Queens Creek Project, by the fact that previous findings had been made that the interests of interstate commerce would not be affected by said projects.³ Accordingly, the Commission directed Nantahala to file applications for licenses for these projects. The Commission's order was upheld upon review in the courts.⁴ The subject application for a license ensued.

Public notice of the application was issued on March 19, 1969, with May 7, 1969, as the last day for the filing of protests or petitions to intervene. Notice was published in the FEDERAL REGISTER on March 26, 1969, 34 Fed. Reg. 5665. No protests, notices of intervention, or petitions to intervene were received.

Description of the Project. As constructed, the Queens Creek Project consists of an earth and rock-fill dam, a 37-acre reservoir, a side-channel spillway excavated in rock, a conduit through the dam serving a penstock and a reservoir drain, a powerhouse containing one 1,440-kW generator, and appurtenant facilities.⁵ The power generated at the project is used by Nantahala for public utility purposes.

General Agency Comments on the Application. There are no conflicting applications for a preliminary permit or a license pending before the Commission, nor does the Queens Creek Project affect any existing or proposed Government dams. Several Federal and State agencies filed comments on the subject license application. None of these agencies

raised objections to the issuance of a license.

By letter dated April 11, 1969, the U.S. Department of Agriculture stated that there are no programs of that Department that would be directly affected by the project.

The U.S. Department of the Army, Corps of Engineers (Corps), by letter dated June 4, 1969, stated that the plans of the project structures are satisfactory insofar as the interests of navigation are concerned, and that no special provisions to protect the interests of the Corps are considered necessary for inclusion in any license that is issued.

In a letter of April 8, 1971, the Tennessee Valley Authority (TVA) noted that several of Nantahala's hydroelectric plants, including Queens Creek, are operated under the direction of TVA in accordance with the terms of the revised Fontana Agreement, which became effective on January 1, 1963.⁶

Recreation, Fish, and Wildlife Resources of the Project Area. Nantahala filed as part of its application Exhibits R and S concerning the recreation and fish and wildlife resources of the project area, respectively. In the Exhibit R, Nantahala states that the Queens Creek Project is located in a high mountain cove with limited and difficult access by unpaved Forest Service and State secondary roads. The project reservoir is open to the public, and is used primarily by the residents of the sparsely settled area for occasional bank or boat fishing. While submitting the initial Exhibit R that existing recreational pressure does not warrant further development at the project, Nantahala states in the supplement to Exhibits R and S filed on March 28, 1969, that it will reserve an area between the State road and the reservoir for future development as the need arises.

With regard to fish and wildlife resources, Nantahala states in the Exhibit S that, inasmuch as there are no anadromous fish species in the creek, there is no need for fish facilities at the project. Nantahala adds that there is little use of project waters by waterfowl, and that the project area supports little hunting.

By letter dated June 24, 1969, the State of North Carolina Department of Administration stated that the small size of the reservoir, the rough terrain, and the difficult access result in a small recreation demand at the project, and that Nantahala's Exhibit R appears to be adequate for present and projected recreation needs.

In a letter dated May 2, 1969, commenting on the Exhibits R and S, the State of North Carolina Wildlife Resources Commission (WRC) stated that Queens Creek and the project reservoir are "Designated Public Mountain Trout Water," meaning that WRC stocks the

⁶In the Nantahala case (fn. 4, *supra*), it was held that the terms of the Fontana Agreement, read in conjunction with the provisions of the Tennessee Valley Authority Act, do not exempt Nantahala from the Commission's licensing authority. 384 F.2d at 212-14.

¹ Commissioner Watt, dissenting, filed as part of original.

²Nantahala, which has its principal offices in Franklin, North Carolina, is a wholly owned subsidiary of the Aluminum Company of America.

³Finding of the Commission, Nantahala Power and Light Co., Docket No. DI-175, 6 F.P.C. 426 (1947).

⁴Declaratory Order, Nantahala Power and Light Co., Docket No. E-7261, 36 F.P.C. 119 (1966), rehearing denied, 36 F.P.C. 581 (1966). The energy produced at the projects covered by the above-cited order enters the interstate power system formed by Nantahala's interconnections with Tapoco, Inc., and the Tennessee Valley Authority.

⁵Affirmed, *Nantahala Power and Light Co. v. FPC*, 384 F.2d 200 (4th Cir. 1967), cert. denied, 390 U.S. 945 (1968).

⁶The project is more fully described in paragraph (B) of this order, *infra*.

creek and reservoir for public fishing, and Nantahala permits free public access to the reservoir so that the fish resource may be exploited. WRC stated further that fishing pressure is light, and that no additional recreation or access development is necessary. Finally, WRC stated that no minimum flow releases are necessary for the protection of downstream fish and wildlife.

The U.S. Department of the Interior (Interior) stated in a letter dated September 15, 1969, that access to the project reservoir is adequate to support current fishing pressure, and that fish passage facilities are unnecessary due to the absence of anadromous fish species in the area. Interior added that operation of the project does not affect wildlife resources, and that project lands are too limited in area to offer any appreciable opportunity for management of these resources. In the interest of conservation and development of fish and wildlife resources, Interior recommended inclusion of standard conditions relating to fish and wildlife in any license that is issued.

Taking into account the nature of the existing resources at the Queens Creek Project, the present use of these resources, and Nantahala's plans to accommodate future recreation needs, we find that the Exhibit R, as supplemented, should be approved. In addition, Article 13 is hereinafter included in this license to ensure continued public access to project lands and waters.

Inasmuch as Nantahala's Exhibit S proposes no facilities or measures for fish and wildlife protection and development, it will not be approved as part of the license. However, Articles 11 and 12 will be included in the license to provide for any measures in the interest of conserving or improving fish and wildlife resources that may be determined as necessary during the license term.

Impact of the Project on Water Quality. In its letter of September 15, 1969, Interior commented that it did not anticipate that the project, as currently operated, would adversely affect the water quality of the area. Interior recommended, however, that standard provisions be included in any license issued to allow for specific stream flow requirements or other measures that might be necessary in the interest of protecting the water quality of Queens Creek. Such provisions are included in Articles 7 and 9 of this license.

On October 26, 1972, Nantahala filed a water quality certificate issued by the North Carolina Board of Water and Air Resources. This certificate was transmitted to the U.S. Environmental Protection Agency, which subsequently notified the Commission that the certificate was sufficient for the purpose of Section 401 (a) (1) of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. § 1341(a) (1).

Historic, Archeological and Cultural Resources of the Project Area. Interior also stated in its letter of September 15, 1969, that there are no historic properties in the vicinity of the project that are listed in the National Register of His-

toric Places established under the provisions of the National Historic Preservation Act of 1966, 16 U.S.C. § 470. The State of North Carolina Department of Cultural Resources, in a letter dated February 18, 1975, stated that it had no objection to the issuance of a license for the project, and confirmed that there were no properties in the vicinity of the project listed in the National Register as of that date. A recent independent survey by the Commission staff disclosed neither historic properties near the project that had been added to the National Register in the interim, nor any properties listed in the National Registry of Natural Landmarks that would be affected by the continued operation of the project.

Safety and Adequacy of the Project. The existing waterways, structures, machinery, and equipment at the Queens Creek Project have been inspected by members of the Commission Staff, and were found to be in good condition and well maintained. There is, however, some seepage of water from underneath the dam. Representatives of Nantahala have informed the Commission staff that this seepage was measured for several years following construction of the project, but that these measurements have been discontinued. The catch basin and pipe that were used to measure the seepage have not been maintained in recent years. We are concerned lest any worsening of this condition go undetected. We are therefore requiring in Article 19 of this license that Nantahala monitor the seepage on an annual basis and report the results of the measurements to the Commission staff.

In a letter sent by our direction to all licensees on August 15, 1975, the Commission staff requested said licensees to prepare emergency plans for the protection of downstream life and property in the event of a dam failure. Since that time we have included special provisions in licenses requiring such plans of new licensees, as well. Accordingly, we will require in Article 23 of this license that an emergency action plan be filed for the Queens Creek Project.

Inasmuch as the dam at the Queens Creek Project is in excess of 35 feet in height, the project is subject to the inspection provisions of Part 12 of our Regulations, 18 C.F.R. § 12.1 *et seq.* (1976). Such inspections will ensure that any further matters involving the safety and adequacy of the project works will be discovered and taken care of.

Environmental Impact; Adaptability to Comprehensive Development. In the years since the Queens Creek Project was constructed, environmental conditions in the vicinity of the project have largely stabilized. No further construction or change in project operation are contemplated at this time. We conclude that issuance of a license for the continued operation and maintenance of the project would not constitute a major Federal action significantly affecting the quality of the human environment. Therefore, preparation of a detailed environmental impact statement pursuant to Section

102(2) (C) of the National Environmental Policy Act of 1969, 42 U.S.C. § 4332 (2) (C), is not necessary. Article 21 is included in this license, however, to ensure that Nantahala consults and cooperates with local, State, and Federal agencies in the interest of preserving and enhancing the environment of the project area.

Subject to the license conditions hereinafter set forth, the project is best adapted to the comprehensive development of Queens Creek, and our issuance of this license with such conditions included is in accordance with the mandate of Section 10(a) of the Act, 16 U.S.C. § 803(a).

Additional Exhibits; Annual Charge. Besides the Exhibits R and S discussed above, Nantahala filed Exhibits J, K, L, and M as part of its application. These exhibits have been examined and found to conform substantially to the Commission's Regulations, and will therefore be approved and made a part of the license.

The installed capacity of the Queens Creek Project is 1,440 kW, the equivalent of approximately 1,920 horsepower. At the current rate of \$0.05 per horsepower for minor projects (those of 2,000 horsepower or less), the annual charge for the administration of Part I of the Act is thus \$96.00. This charge is provided for in Article 20 of the license.

Waiver of Certain Provisions of the Federal Power Act. In an order concerning FPC Projects Nos. 2347 and 2373 issued on February 17, 1965,⁷ the Commission stated that it would, if an applicant so desires, issue a license for a minor project without waiving those sections of the Act relating to Federal takeover and other provisions necessary to the effectuation of those sections, provided that the minor project application is timely supplemented pursuant to Section 4.50 of the Commission's Regulations, 18 C.F.R. § 4.50 (1976), which relates to applications for major projects. In the event Nantahala wishes a license in which those provisions of the Act are not waived, it should so advise us within 30 days from the date of issuance of this order, and file its supplemental application within 30 additional days thereafter.

License Term. As noted above, the Commission's jurisdiction over the Queens Creek Project is based upon the rationale approved in the U.S. Supreme Court's *Taum Sauk* decision. In 1971, the Commission established a revised approach to determining the term of licenses granted for projects subject to *Taum Sauk* jurisdiction. In its order on rehearing issued on January 6, 1971, in *Pacific Gas and Electric Co.*, Project No. 2687, 45 F.P.C. 28 (1971), the Commission provided for a license term effective as of May 1, 1965, the first day of the month in which the U.S. Supreme Court's *Taum Sauk* decision was rendered, and terminating approximately twenty-five years from the date of issuance of the license

⁷ Order Denying Applications for Rehearing, *Wisconsin Power & Light Co.*, Project No. 2347; *South Beloit Water, Gas and Electric Co.*, Project No. 2373, 33 F.P.C. 275 (1965).

order. This approach was followed consistently thereafter.

In a recent order issuing a major license in *Pacific Power and Light Co.*, Project No. 2652, F.P.C. (issued September 24, 1976), we somewhat modified this *Taum Sauk* license term policy, although explicitly retaining the *Pacific Gas and Electric* approach for those *Taum Sauk* projects for which license applications were then on file. Project No. 2694 falls within the latter category.

On February 25, 1971, Nantahala filed a "Supplemental Memorandum" in which it requested a full fifty-year prospective license term for Project No. 2694, among others, seeking on various grounds to distinguish the project from other projects for which *Taum Sauk* licenses had been issued for shorter terms. Nantahala asked that it be advised of the Commission staff's position on the license term issue prior to Commission action on the license application, and that it be afforded an opportunity to respond to any such position that recommended "less than the minimum term acceptable to the Company." Nantahala asserted in the Memorandum that the license term should be one of the following: (1) fifty years from the date of issuance of the license order; (2) fifty years from July, 1966, the month in which the Commission held that a license would be required in spite of the prior finding of no effect on interstate commerce (see *in. 3, supra*); or (3) fifty years from April, 1965, "the date used by the Commission in previous licenses in which jurisdiction is based upon transmission in interstate commerce." For the reasons hereinafter enunciated, Nantahala's requests will be denied.

Nantahala's claim to a full fifty-year license term is founded primarily upon the peculiar circumstance of the Commission's inconsistent jurisdictional pronouncements on the project. Nantahala argues that, having filed a declaration of intention pursuant to Section 23(b) of the Act, and having received a definite, albeit mistaken, assurance from the Commission that the "interests of interstate commerce" within the meaning of the Act would not be affected, its construction and operation of the project was duly authorized, and thus it should not be treated in the same manner as other *Taum Sauk* licensees whose operations had been without such authority. Nantahala likens itself to the owners of hydroelectric projects, located on navigable rivers, which had been constructed pursuant to valid Federal permits prior to the passage of the Federal Water Power Act of 1920. As these projects came under license, states Nantahala, the Commission, recognizing that they had been operated pursuant to such permits, granted licenses with terms of fifty years

from the date of issuance. Nantahala argues that its own previous "authorization" entitles it to similar treatment.

While a prospective licensee's prior authority and good faith compliance with the Act are important factors in determining the effective date and duration of a license,¹⁰ they are by no means the only factors taken into consideration. Also important are the age of the project and the number of years the owner has enjoyed unregulated operation.¹¹ Even accepting Nantahala's analogy comparing itself to a new licensee with a prior Federal permit, such factors may operate to reduce the license term substantially. In its order issuing a major license in *Southern California Edison Co.*, Project No. 2290, 32 F.P.C. 553 (1964), rehearing denied 32 F.P.C. 910 (1964), the Commission considered the matter of a proper license term for a project which had been operated for several decades pursuant to a prior Federal permit. The applicant had requested a full fifty-year license term. In rejecting the request, the Commission stated as follows:

We have concluded that an appropriate normal term in issuing a new license at the expiration of a federal permit would be twenty-five years. This will give the licensee a sufficient degree of certainty to permit integration of the project into its overall plans while at the same time bringing the project before the Commission for reconsideration within a reasonable period. The fifty-year maximum written into the statute was geared to the approximate period which might be necessary to insure that the applicant could finance construction and has no bearing upon the question of how long a period should be allowed for new licenses for projects at the end of their original term. *Southern California Edison, supra*, at 555-56.

Nantahala has had the benefit of nearly thirty years of unregulated operation of the Queens Creek Project. We can find no compelling reason to treat Nantahala differently from any other *Taum Sauk* licensee with a project of comparable age. The twenty-five-year prospective license term provided pursuant to the *Pacific Gas and Electric* approach will ensure reconsideration of the project after a period of time consonant with its vintage. Moreover, the latter approach, by making the license effective as of May 1, 1965, rather than the date of construction of the project,¹² avoids holding Nantahala responsible for the period of years that the project was operated without a license on the basis of the Commission's mistaken interpretation of the Act. Accordingly, the license issued herein will be effective as of May 1, 1965, and will terminate twenty-

five years from the first day of the month in which this order is issued.

We note Nantahala's request that it be notified of the Commission staff's recommendation with regard to the license term prior to our action on the license application, and that it be afforded an opportunity to respond to said recommendation. Congress has provided an adequate vehicle to challenge the terms and conditions of a license under Section 313 of the Act, 16 U.S.C. § 825i. If Nantahala considers itself aggrieved by our disposition of the license term issue, its recourse is to seek rehearing and court review pursuant to that statutory provision.

The Commission finds: (1) The Queens Creek Project, F.P.C. No. 2694, affects the interests of interstate commerce.

(2) Applicant is a corporation organized under the laws of the State of North Carolina and has submitted satisfactory evidence of compliance with the requirements of all applicable State laws insofar as necessary to effectuate the purposes of the license for the project.

(3) Public notice of the filing of the application has been given. No protests, notices of intervention, or petitions to intervene have been received.

(4) No conflicting applications for a preliminary permit or a license are before the Commission.

(5) The project does not affect a Government dam, nor will the issuance of a license therefor, as hereinafter provided, affect the development of any water resource for public purposes that should be undertaken by the United States at this time.

(6) Subject to the terms and conditions hereinafter imposed, the project will be best adapted to a comprehensive plan for improving or developing Queens Creek for the use or benefit of interstate or foreign commerce, for the improvement and utilization of water power development, and for other beneficial public uses, included recreational purposes.

(7) Issuance of a license for the project does not constitute a major Federal action significantly affecting the quality of the human environment.

(8) The installed horsepower capacity of the project hereinafter authorized for the purpose of computing the capacity component of the administrative annual charge is 1,920 horsepower, and the amount of annual charge, based on such capacity, to be paid under the license for the project for the cost of administration of Part I of the Act is reasonable as hereinafter fixed and specified.

(9) It will be in the public interest to waive, pursuant to Section 10(d) of the Act, the terms and conditions contained in the following sections of Part I of the Act: 4(b), except the second sentence thereof; 4(e), insofar as it relates to approval of plans by the Chief of Engineers and the Secretary of the Army; 6, insofar as it relates to the acceptance and expression in the license of terms and conditions of the Act that are hereinafter waived; 10(c), insofar as it

¹⁰ Section 6 of the Act, 16 U.S.C. § 799, provides, in part, that "Licenses under this Part shall be issued for a period not exceeding fifty years."

¹¹ Projects Nos. 2686, 2692, and 2698 were also covered by the Memorandum. To date, none of these projects has been licensed.

¹² See, e.g., Opinion and Order Issuing License, *Public Service Company of New Hampshire*, Project No. 2288, 27 F.P.C. 630 (1962) (the *Androscoggin* case).

¹³ See Order Denying Rehearing, *Niagara Mohawk Power Corp.*, Project No. 2616, 41 F.P.C. 775 (1969).

¹⁴ Significantly, the license issued by this order will expire several years after the date the license would have expired had the Commission licensed the project for a full fifty years upon commencement of construction.

relates to depreciation reserves; 10(d); 10(f); 11; 12; 14, except insofar as the power of condemnation is reserved; 15, insofar as it relates to Federal takeover; 19; 20; 22; and 23(a), insofar as it relates to the determination of fair value.

(10) Waiver of portions of Sections 14 and 15 of the Act, as provided in paragraph (9) above, should be optional on the part of Applicant as provided herein.

(11) The term of the license herein-after authorized is reasonable.

(12) The exhibits designated and described in paragraph (B) below conform to the Commission's Rules and Regulations and should be approved as part of the license for the project.

The Commission orders: (A) This license is hereby issued to Nantahala Power and Light Company (hereinafter Licensee) of Franklin, North Carolina, under Sections 4(e) and 10(i) of the Federal Power Act, for a period effective as of May 1, 1965, and terminating twenty-five years from the first day of the month in which this order is issued, for the continued operation and maintenance of the Queens Creek Project, FPC No. 2694, located on Queens Creek in Macon County, North Carolina, and affecting the interests of interstate commerce, subject to the terms and conditions of the Federal Power Act, insofar as not expressly waived herein, which Act is incorporated by reference as a part of this license, and subject to such rules and regulations as the Commission has issued or prescribed under the provisions of the Act.

(B) The Queens Creek Project consists of:

(i) all lands constituting the project area and enclosed by the project boundary or the Licensee's interests in such lands, the limits of which are otherwise defined, the use and occupancy of which are necessary for the purpose of the project; such project area and project boundary being shown and described by an exhibit which forms part of the application for a license and which is designated and described as follows:

THIS	Exhibit	FPC No. 2694-
Queens Creek development.....	K	2

(ii) project works including: (1) an earth and rock-fill dam 78 feet high and 382 feet long; (2) a reservoir with a surface area of 37 acres at normal pool elevation 3,027 feet (U.S.C. & G.S. datum) and with a useful storage capacity of 778 acre-feet; (3) a side-channel spillway excavated in rock and controlled by an earth fuse plug comprising a pilot section with its crest at elevation 3,028 feet and a second section with its crest at 3,030 feet; (4) a low-level conduit through the dam to a wye, one branch of which functions as an intake for a penstock 24 inches in diameter and 6,600 feet long, and the other branch of which serves as a reservoir drain; (5) a powerhouse containing a generator with a capacity of 1,440 kW; and (6) appurtenant facilities—the

location, nature, and character of which are more specifically shown and described by the exhibit hereinbefore cited and by certain other exhibits which also form part of the application for a license and which are designated and described as follows:

Exhibit	FPC No. 2694-	Title
L	3	Plan of dam, intakes and spillway.
L	4	Cross sections of dam.
L	5	Dam section through intake conduit, fuse plug sections.
L	6	Intake and pipeline details.
L	7	Powerhouse plan and sections.

Exhibit M. Consisting of two (2) type-written pages entitled "General Description of Plant Equipment," filed on January 2, 1969.

Exhibit R. Consisting of four (4) pages of text entitled "Plan for Utilization of Project Waters for Recreational Purposes," filed on January 2, 1969, and supplemented on March 28, 1969; and a map (revised on March 20, 1969) entitled "Public Access for Recreational Use," and designated as Exhibit R-2 (FPC No. 2694-9).

(iii) all of the structures, fixtures, equipment, or facilities used or useful in the maintenance and operation of the project and located within the project area, and such other property as may be used or useful in connection with the project or any part thereof, whether located within or outside the project area, if and to the extent that the inclusion of such property as part of the project is approved or acquiesced in by the Commission; together with all riparian or other rights, the use or possession of which is necessary or appropriate in the maintenance or operation of the project.

(C) This license is also subject to the conditions set forth in Form L-12 (Revised October, 1975) entitled "Terms and Conditions of License for Constructed Minor Project Affecting the Interests of Interstate or Foreign Commerce," which terms and conditions, designated as Articles 1 through 18, are attached hereto and made a part hereof, and subject to the following conditions which are set forth herein as additional articles:

Article 19. The Licensee shall, within one year of the date of issuance of this license, measure the flow of water seeping from underneath the project dam and file a report on the results of such measurement with the Commission; and shall carry out such measurement and file a report thereon in each succeeding year following the date of the initial measurement.

Article 20. For the purpose of reimbursing the United States for the cost of administration of Part I of the Federal Power Act, the Licensee shall pay, effective as of May 1, 1965, \$96.00 per annum, or such reasonable annual charge as may otherwise be specified by the Commission from time to time in accordance with its regulations, the authorized installed capacity for such purpose being 1,920 horsepower.

Article 21. The Licensee shall, in the interest of preserving and enhancing the environment of the project area, consult and cooperate with interested local, State, and Federal agencies; and the Commission reserves the right to require, after notice and opportunity for hearing, such changes in the project and/or its operation as may be necessary to preserve or enhance the environment of the project area.

Article 22. The Licensee shall file with the Commission an emergency action plan designed to provide an early warning to downstream inhabitants and property owners if there should be an impending or actual sudden release of water caused by an accident to, or failure of, project structures. Such plan, to be submitted within one year of the date of issuance of the license, shall include, but not be limited to, instructions to be provided on a continuing basis to operators and attendants for actions they are to take in the event of an emergency; detailed and documented plans for notifying law enforcement agents, appropriate Federal, State, and local agencies, operators of downstream water-related facilities, and those residents and owners of properties that could be endangered; actions that would be taken to reduce the inflow to the reservoir, if such is possible, by limiting the outflow from upstream dams or control structures; and actions to reduce downstream flows by controlling the outflow from dams located on tributaries to the stream on which the project is located. The Licensee shall also submit a summary of the study used as a basis for determining the areas that may be affected by such an emergency occurrence, including criteria and assumptions used.

(D) The exhibits designated and described in paragraph (B) above are hereby approved and made a part of this license.

(E) The terms and conditions of the Federal Power Act that have been found to be in the public interest to waive are hereby excluded from this license.

(F) This order shall become final 30 days from the date of its issuance unless an application for rehearing shall be filed as provided in section 313(a) of the Federal Power Act, and failure to file such an application shall constitute acceptance of this license. In acknowledgment of the acceptance of the license, it shall be signed for the Licensee and returned to this Commission within 60 days of the date of issuance of this order.

By the Commission.

KENNETH F. PLUMB,
Secretary.

In testimony of its acknowledgment of acceptance of all of the provisions, terms, and conditions of this license, Nantahala Power and Light Company, this ____ day of _____, 19____, has caused its corporate name to be signed hereto by _____, its President, and its corporate seal to be affixed hereto and attested by _____, its Secretary, pursuant to a resolution of its Board of Directors duly adopted on the ____ day of _____, 19____.

19. a certified copy of the record of which is attached hereto.

By _____
President

Attest:

Secretary
(Executed in quadruplicate.)

FORM L-12 (REVISED OCTOBER, 1975)

TERMS AND CONDITIONS OF LICENSE FOR CONSTRUCTED MINOR PROJECT AFFECTING THE INTERESTS OF INTERSTATE OR FOREIGN COMMERCE

Article 1. The entire project, as described in this order of the Commission, shall be subject to all of the provisions, terms, and conditions of the license.

Article 2. No substantial change shall be made in the maps, plans, specifications, and statements described and designated as exhibits and approved by the Commission in its order as a part of the license until such change shall have been approved by the Commission: *Provided, however,* That if the Licensee or the Commission deems it necessary or desirable that said approved exhibits, or any of them, be changed, there shall be submitted to the Commission for approval a revised, or additional exhibit or exhibits covering the proposed changes which, upon approval by the Commission, shall become a part of the license and shall supersede, in whole or in part, such exhibit or exhibits theretofore made a part of the license as may be specified by the Commission.

Article 3. The project area and project works shall be in substantial conformity with the approved exhibits referred to in Article 2 herein or as changed in accordance with the provisions of said article. Except when emergency shall require for the protection of navigation, life, health, or property, there shall not be made without prior approval of the Commission any substantial alteration or addition not in conformity with the approved plans to any dam or other project works under the license or any substantial use of project lands and waters not authorized herein; and any emergency alteration, addition, or use so made shall thereafter be subject to such modification and change as the Commission may direct. Minor changes in project works, or in uses of project lands and waters, or divergence from such approved exhibits may be made if such changes will not result in a decrease in efficiency, in a material increase in cost, in an adverse environmental impact, or in impairment of the general scheme of development; but any of such minor changes made without the prior approval of the Commission, which in its judgment have produced or will produce any of such results, shall be subject to such alteration as the Commission may direct.

Article 4. The project, including its operation and maintenance and any work incidental to additions or alterations authorized by the Commission, whether or not conducted upon lands of the United States, shall be subject to the inspection and supervision of the Regional Engineer, Federal Power Commission, in the region wherein the project is located, or of such other officer or agent as the Commission may designate, who shall be the authorized representative of the Commission for such purposes. The Licensee shall cooperate fully with said representative and shall furnish him such information as he may require concerning the operation and maintenance of the project, and any such alterations thereto, and shall notify him of the date upon which work with respect to any alteration will begin, as far in advance thereof as said representative may reasonably specify, and shall notify him promptly in writing of any suspension of work for a

period of more than one week, and of its resumption and completion. The Licensee shall submit to said representative a detailed program of inspection by the Licensee that will provide for an adequate and qualified inspection force for construction of any such alterations to the project. Construction of said alterations or any feature thereof shall not be initiated until the program of inspection for the alterations or any feature thereof has been approved by said representative. The Licensee shall allow said representative and other officers or employees of the United States, showing proper credentials, free and unrestricted access to, through, and across the project lands and project works in the performance of their official duties. The Licensee shall comply with such rules and regulations of general or special applicability as the Commission may prescribe from time to time for the protection of life, health, or property.

Article 5. The Licensee, within five years from the date of issuance of the license, shall acquire title in fee or the right to use in perpetuity all lands, other than lands of the United States, necessary or appropriate for the construction, maintenance, and operation of the project. The Licensee or its successors and assigns shall, during the period of the license, retain the possession of all project property covered by the license as issued or as later amended, including the project area, the project works, and all franchises, easements, water rights, and rights of occupancy and use; and none of such properties shall be voluntarily sold, leased, transferred, abandoned, or otherwise disposed of without the prior written approval of the Commission, except that the Licensee may lease or otherwise dispose of interests in project lands or property without specific written approval of the Commission pursuant to the then current regulations of the Commission. The provisions of this article are not intended to prevent the abandonment or the retirement from service of structures, equipment, or other project works in connection with replacements thereof when they become obsolete, inadequate, or inefficient for further service due to wear and tear; and mortgage or trust deeds or judicial sales made thereunder, or tax sales, shall not be deemed voluntary transfers within the meaning of this article.

Article 6. The Licensee shall install and thereafter maintain gages and stream-gaging stations for the purpose of determining the stage and flow of the stream or streams on which the project is located, the amount of water held in and withdrawn from storage, and the effective head on the turbines; shall provide for the required reading of such gages and for the adequate rating of such stations; and shall install and maintain standard meters adequate for the determination of the amount of electric energy generated by the project works. The number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, shall at all times be satisfactory to the Commission or its authorized representative. The Commission reserves the right, after notice and opportunity for hearing, to require such alterations in the number, character, and location of gages, meters, or other measuring devices, and the method of operation thereof, as are necessary to secure adequate determinations. The installation of gages, the rating of said stream or streams, and the determination of the flow thereof, shall be under the supervision of, or in cooperation with, the District Engineer of the United States Geological Survey having charge of stream-gaging operations in the region of the project, and the Licensee shall advance to the United States Geological Survey the amount of funds esti-

mated to be necessary for such supervision, or cooperation for such periods as may be mutually agreed upon. The Licensee shall keep accurate and sufficient records of the foregoing determinations to the satisfaction of the Commission, and shall make return of such records annually at such time and in such form as the Commission may prescribe.

Article 7. The Licensee shall, after notice and opportunity for hearing, install additional capacity or make other changes in the project as directed by the Commission, to the extent that it is economically sound and in the public interest to do so.

Article 8. The Licensee shall, after notice and opportunity for hearing, coordinate the operation of the project, electrically and hydraulically, with such other projects or power systems and in such manner as the Commission may direct in the interest of power and other beneficial public uses of water resources, and on such conditions concerning the equitable sharing of benefits by the Licensee as the Commission may order.

Article 9. The operations of the Licensee, so far as they affect the use, storage and discharge from storage of waters affected by the license, shall at all times be controlled by such reasonable rules and regulations as the Commission may prescribe for the protection of life, health, and property, and in the interest of the fullest practicable conservation and utilization of such waters for power purposes and for other beneficial public uses, including recreational purposes, and the Licensee shall release water from the project reservoir at such rate in cubic feet per second, or such volume in acre-feet per specified period of time, as the Commission may prescribe for the purposes hereinbefore mentioned.

Article 10. On the application of any person, association, corporation, Federal agency, State or municipality, the Licensee shall permit such reasonable use of its reservoir or other project properties, including works, lands and water rights, or parts thereof, as may be ordered by the Commission, after notice and opportunity for hearing, in the interests of comprehensive development of the waterway or waterways involved and the conservation and utilization of the water resources of the region for water supply or for the purposes of steam-electric, irrigation, industrial, municipal or similar uses. The Licensee shall receive reasonable compensation for use of its reservoir or other project properties or parts thereof for such purposes, to include at least full reimbursement for any damages or expenses which the joint use causes the Licensee to incur. Any such compensation shall be fixed by the Commission either by approval of an agreement between the Licensee and the party or parties benefiting or after notice and opportunity for hearing. Applications shall contain information in sufficient detail to afford a full understanding of the proposed use, including satisfactory evidence that the applicant possesses necessary water rights pursuant to applicable State law, or a showing of cause why such evidence cannot concurrently be submitted, and a statement as to the relationship of the proposed use to any State or municipal plans or orders which may have been adopted with respect to the use of such waters.

Article 11. The Licensee shall, for the conservation and development of fish and wildlife resources, construct, maintain, and operate, or arrange for the construction, maintenance, and operation of such reasonable facilities, and comply with such reasonable modifications of the project structures and operation, as may be ordered by the Commission upon its own motion or upon the recommendation of the Secretary of the Interior or the fish and wildlife agency or agencies of any State in which the project or a part

thereof is located, after notice and opportunity for hearing.

Article 12. Whenever the United States shall desire, in connection with the project, to construct fish and wildlife facilities or to improve the existing fish and wildlife facilities at its own expense, the Licensee shall permit the United States or its designated agency to use, free of cost, such of the Licensee's lands and interests in lands, reservoirs, waterways and project works as may be reasonably required to complete such facilities or such improvements thereof. In addition, after notice and opportunity for hearing, the Licensee shall modify the project operation as may be reasonably prescribed by the Commission in order to permit the maintenance and operation of the fish and wildlife facilities constructed or improved by the United States under the provisions of this article. This article shall not be interpreted to place any obligation on the United States to construct or improve fish and wildlife facilities or to relieve the Licensee of any obligation under this license.

Article 13. So far as is consistent with proper operation of the project, the Licensee shall allow the public free access, to a reasonable extent, to project waters and adjacent project lands owned by the Licensee for the purpose of full public utilization of such lands and waters for navigation and for outdoor recreational purposes, including fishing and hunting. *Provided,* That the Licensee may reserve from public access such portions of the project waters, adjacent lands, and project facilities as may be necessary for the protection of life, health, and property.

Article 14. In the construction, maintenance, or operation of the project, the Licensee shall be responsible for, and shall take reasonable measures to prevent, soil erosion on lands adjacent to streams or other waters, stream sedimentation, and any form of water or air pollution. The Commission, upon request or upon its own motion, may order the Licensee to take such measures as the Commission finds to be necessary for these purposes, after notice and opportunity for hearing.

Article 15. The Licensee shall clear and keep clear to an adequate width lands along open conduits and shall dispose of all temporary structures, unused timber, brush, refuse, or other material unnecessary for the purposes of the project which results from the clearing of lands or from the maintenance or alteration of the project works. In addition, all trees along the periphery of project reservoirs which may die during operations of the project shall be removed. All clearing of the lands and disposal of the unnecessary material shall be done with due diligence and to the satisfaction of the authorized representative of the Commission and in accordance with appropriate Federal, State, and local statutes and regulations.

Article 16. If the Licensee shall cause or suffer essential project property to be removed or destroyed or to become unfit for use, without adequate replacement, or shall abandon or discontinue good faith operation of the project or refuse or neglect to comply with the terms of the license and the lawful orders of the Commission mailed to the record address of the Licensee or its agent, the Commission will deem it to be the intent of the Licensee to surrender the license. The Commission, after notice and opportunity for hearing, may require the Licensee to remove any or all structures, equipment and power lines within the project boundary and to take any such other action necessary to restore the project waters, lands, and facilities remaining within the project boundary to a condition satisfactory to the United States agency having jurisdiction over its lands or the Commission's authorized representative,

as appropriate, or to provide for the continued operation and maintenance of nonpower facilities and fulfill such other obligations under the license as the Commission may prescribe. In addition, the Commission in its discretion, after notice and opportunity for hearing, may also agree to the surrender of the license when the Commission, for the reasons recited herein, deems it to be the intent of the Licensee to surrender the license.

Article 17. The right of the Licensee and of its successors and assigns to use or occupy waters over which the United States has jurisdiction, or lands of the United States under the license, for the purpose of maintaining the project works or otherwise, shall absolutely cease at the end of the license period, unless the Licensee has obtained a new license pursuant to the then existing laws and regulations, or an annual license under the terms and conditions of this license.

Article 18. The terms and conditions expressly set forth in the license shall not be construed as impairing any terms and conditions of the Federal Power Act which are not expressly set forth therein.

[FR Doc.76-31977 Filed 11-1-76;8:45 am]

[Docket No. ER77-16]

NEVADA POWER CO. Interconnection Agreement

OCTOBER 26, 1976.

Take notice that on October 12, 1976, Nevada Power Company (Nevada) tendered for filing an Interconnection Agreement between it and the City of Glendale (Glendale) dated September 30, 1976. Nevada states the primary purpose of this Interconnection Agreement is to provide for the exchange of generating capacity and energy between the electric systems of the parties.

Nevada states that services may be provided under three Service Schedules:

1. Service Schedule A—Emergency Assistance.
2. Service Schedule B—Economy Energy Interchange.
3. Service Schedule C—Banked Energy.

Nevada requests an effective date of September 30, 1976, for this Agreement with an initial term of one year.

Copies of this filing were served upon Nevada's jurisdictional customers, the California-Pacific Utilities Company, and upon the Public Service Commission of Nevada and the Public Utilities Commission of the State of California.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 16, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31958 Filed 11-1-76;8:45 am]

[Docket No. RP73-8, (PGA 77-1 and 77-2)]

NORTH PENN GAS CO.

Proposed Changes in FPC Gas Tariff

OCTOBER 26, 1976.

Take notice that North Penn Gas Company (North Penn) on October 7, 1976, tendered for filing proposed changes in its FPC Gas Tariff, First Revised Volume No. 1, pursuant to its PGA Clause for rates to be effective October 27, 1976.

North Penn states that the proposed increase is the result of increases filed by all of its pipeline suppliers as a result of Opinion No. 770 and will increase jurisdictional revenues by approximately \$5.0 million annually.

Additionally, North Penn is filing a proposed decrease in rates to become effective November 1, 1976, which reflects a change in rates from Consolidated Gas Supply Corporation filed October 1, 1976, to be effective November 1, 1976. The proposed change would decrease jurisdictional revenues by approximately \$45.5 thousand annually.

North Penn is requesting a waiver of any of the Commission's Rules and Regulations in order to permit the proposed rates to go into effect as proposed.

Copies of this filing were served upon North Penn's jurisdictional customers, as well as interested state commissions.

Any persons desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 4, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31963 Filed 11-1-76;8:45 am]

[Docket No. RP76-89]

NORTHERN NATURAL GAS CO.

Filing of Stipulation and Agreement

OCTOBER 26, 1976.

On April 22, 1976, Northern filed revised tariff sheets providing increased rates of approximately \$71,723,000 annually to jurisdictional customers, based on adjusted sales for the twelve (12) months ended December 31, 1975. An ef-

fective date of May 27, 1976 was requested, but the increase was suspended until October 27, 1976 by the Commission's suspension order issued May 26, 1976. On October 18, 1976, Northern filed a Stipulation and Agreement which they stated compromised and settled all issues involved in this Docket upon the terms, provisions and conditions therein specified and with the reservations therein set forth. The Stipulation and Agreement provides a total increase of approximately \$57,188,000.

The Stipulation and Agreement is on file with the Commission and is available for public inspection. Comments with respect to the Stipulation and Agreement may be filed with the Commission on or before November 16, 1976. Any replies thereto may be filed on or before November 30, 1976.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31961 Filed 11-1-76; 8:45 am]

[Docket No. RP73-48 (PGA77-1)]

**NORTHERN NATURAL GAS CO.; PEOPLES
NATURAL GAS DIVISION**

**Rate Change Pursuant to Purchased Gas
Cost Adjustment Provision**

OCTOBER 22, 1976.

Take notice that Peoples Natural Gas Division of Northern Natural Gas Company (Northern) on October 14, 1976, tendered for filing Substitute Fourteenth Revised Sheet No. 3a of its F.P.C. Gas Tariff, Original Volume No. 4. Northern states that the proposed change to become effective October 27, 1976, would increase the rate per Mcf to jurisdictional customers by 15.35¢ per Mcf. Northern states that this increase in rates by Colorado Interstate Gas Company, resulting from a Purchased Gas Adjustment made in accordance with the provisions of F.P.C. Opinion 770. Northern states that Colorado Interstate is the pipeline supplier to Peoples for sales made under Volume No. 4.

Northern states that copies of the filing were served upon the Gas Utility Customers and interested State Commissioners.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 5, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31974 Filed 11-1-76; 8:45 am]

[Docket No. RP72-154; PGA 76-6a]

NORTHWEST PIPELINE CORP.

Tariff Filing

OCTOBER 27, 1976.

Take notice that Northwest Pipeline Corporation ("Northwest"), on October 15, 1976, tendered for filing Amended Second Substitute Thirteenth Revised Sheet No. 10, setting forth a revised Statement of Rates to its FPC Gas Tariff, Original Volume No. 1. Second Substitute Thirteenth Revised Sheet No. 10 is presently on file with the Commission as a part of Northwest's special PGAC filing of September 27, 1976 based on increased purchased gas costs resulting from Opinion No. 770. The purpose in amending its Statement of Rates as filed on September 27, 1976 is to provide for a further surcharge credit adjustment to Rate Schedule SGS-1 to keep the cost of purchased gas as reflected in the SGS-1 sales rate equal to the cost of gas now in storage. The aforementioned adjustment was omitted from Northwest's filing of September 27, 1976. The proposed change in rates will reduce Northwest's SGS-1 revenues by \$588,690 during the 1976-77 season.

Furthermore, Northwest states that it proposes to refund the difference between the amount Northwest collects through its leasehold gas cost adjustment contained in its September 27, 1976 PGAC filing and its level of cost of service associated with such production as reflected in Docket No. RP74-95, adjusted for the increased level of costs for landowner royalties and production taxes attributable to Opinion No. 770. In its filing of September 27, 1976 Northwest had stated that if the Commission allowed cost of service treatment for its leasehold production, Northwest would refund all monies collected as a result of including the higher leasehold production costs in that filing.

Northwest has requested waiver of its PGAC and applicable Commission's Regulations as necessary to permit (1) the tendered tariff sheet to become effective as of October 27, 1976 in lieu of Northwest's tariff sheet as filed on September 27, 1976 and (2) the withdrawal of Second Substitute Thirteenth Revised Sheet No. 10.

Northwest states that a copy of this filing is being served upon all parties of record in Docket No. RP72-154 and otherwise, upon all jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 8, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this

filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31983 Filed 11-1-76; 8:45 am]

[Docket No. CP71-237 and Docket No. C171-714]

**PANHANDLE EASTERN PIPE LINE CO. AND
PAN EASTERN EXPLORATION CO.**

Order Granting Late Interventions

OCTOBER 20, 1976.

By order dated December 2, 1975, the Commission reopened the instant proceedings for the limited purpose of developing a further evidentiary record on specified issues. The following untimely petitions to intervene were received:

City of Indianapolis, December 18, 1975.
Citizens Gas Fuel Company, April 7, 1976.
Ohio Gas Company, April 7, 1976.
Missouri Utilities Company, April 7, 1976.
Richmond Gas Corporation, April 7, 1976.
The Toledo Edison Company, April 7, 1976.
Associated Natural Gas Company, April 7, 1976.
Battle Creek Gas Company, April 7, 1976.
Central Illinois Public Service Company, April 7, 1976.

Having reviewed the above petitions to intervene we believe the petitioners have sufficient interest in the proceedings to warrant intervention. The grant of these interventions are particularly appropriate in the instant matter because the order placed an affirmative burden on all interested parties to come forward with an evidentiary showing relative to the matter under consideration.

The Commission finds—(1) The participation by the above named petitioners to intervene may be in the public interest.

(2) Although the petitions to intervene referred to above were filed out of time, good cause exists to allow their filing upon the specific condition that the late filings shall not be the basis for any delay in this proceeding.

The Commission orders.—(A) The above listed petitioners to intervene are hereby permitted to intervene in this proceeding subject to the Rules and Regulations of the Commission; *Provided, however*, That the participation of such intervenors shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene; and *Provided, further*, That the admission of such intervenors shall not be construed as recognition by the Commission that they might be aggrieved because of any order or orders of the Commission entered in this proceeding.

(B) The interventions granted herein shall not be the basis for delaying or deferring any procedural schedules heretofore established for the orderly and expeditious disposition of this proceeding.

(C) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31979 Filed 11-1-76; 8:45 am]

[Docket Nos. ER76-811, E-8928]

PACIFIC GAS AND ELECTRIC CO.**Order Denying Application for Rehearing, Motion for Reconsideration, and Motion for Expedited Hearing**

OCTOBER 22, 1976.

By order issued August 25, 1976, the Commission accepted for filing and suspended for two months Pacific Gas and Electric Company's (PG&E) proposed rate increase to ten wholesale customers¹ in Docket No. ER76-811. On September 24, 1976, the Northern California Power Agency and the Cities of Alameda, Healdsburg, Lodi, Lompoc, Santa Clara, and Ukiah, California (collectively, NCPA) filed an application for rehearing of the August 25 order. In its application, NCPA seeks rejection of PG&E's filing or, alternatively, suspension thereof for the maximum statutory period and an expedited hearing to consider its claims of discrimination and anticompetitive conduct by PG&E. In the same September 24 pleading, NCPA moves the Commission to reconsider its previously-ordered one-day suspension of PG&E's rate increase filing in Docket No. E-8928. For the reasons set forth hereinbelow, the Commission shall deny NCPA's application for rehearing and its motion for reconsideration.

In its application for rehearing, NCPA contends that it has been and continues to be subjected to a "price squeeze"² as a result of PG&E's high rates for wholesale customers than for large industrial customers. In this regard, NCPA asserts that PG&E's existing wholesale rates (i.e. those rates in effect prior to the filing in Docket No. ER76-811) produce unreasonable discrimination which is compounded by the proposed increase in the instant docket. In support of this assertion, NCPA submits billing comparisons³ which purport to demonstrate the disparity in PG&E's wholesale and retail rates. Unless the Commission's two-month suspension order of August 25 is reversed or modified, says NCPA, such disparity will increase on October 26, 1976, the effective date established in said Commission order for the increase proposed in this docket. NCPA contends that the disparity is due to differences in the fuel adjustment factors for wholesale and large industrial customers, differences in rate of return earned from the two customer groups, and the cost allocation method employed by PG&E for its wholesale customers.

NCPA also contends that the alleged discrimination is illustrated by a com-

parison of PG&E's wholesale rate with the internal "transfer price" at an equivalent level used by PG&E in setting all of its retail rates. Such comparison shows, according to NCPA, that PG&E is charging lesser costs (at an equivalent level) to its retail classes than to its wholesale customers, a practice assertedly held to be illegal by the U.S. Court of Appeals in *U.S. v. Aluminum Company of America*, 148 F.2d 416 (2nd Cir. 1945).

On the basis of the allegations discussed above and the rate comparisons appended to its application for rehearing, NCPA submits that the Commission should reject the filing since it allegedly results in "undue and unjustified discrimination." Alternatively, NCPA requests a five-month suspension and an expedited hearing on the "price squeeze" issue. Expedition in this proceeding is mandated by the public interest and the Conway⁴ decision, NCPA asserts.

As noted in the Commission's August 25 suspension order (allegations of anticompetitive conduct and "price squeeze" were originally made in NCPA's August 16, 1976, pleading in response to the notice of PG&E's filing in this docket. Those allegations are not a sufficient basis upon which to reject the subject filing. Rather, the allegations raise questions of fact which can only be disposed of after development of an evidentiary record.

The top sheet procedure established in our August 25 suspension order⁵ will give the parties an opportunity to explore the possibility of settlement of the "price squeeze" issue and all other issues raised in this proceeding. If settlement cannot be accomplished, the Presiding Administrative Law Judge will establish appropriate dates for the service of testimony and hearing. NCPA's request for an expedited hearing may be made to the Presiding Judge at that time. At this time, however, the request must be denied.

As previously noted, NCPA's application for rehearing requests that the Commission modify the two-month suspension period previously established in favor of a five-month suspension of the proposed increase. The Commission has thoroughly reviewed PG&E's filing and the pleadings filed by all parties to date, and we remain of the opinion that a two-month suspension period is appropriate in this case.⁶

As noted above, NCPA's September 24, 1976, pleading also requests that the Commission reconsider the one-day suspension ordered by the Commission in Docket No. E-8928.⁷ NCPA reiterates an argument initially presented in its plead-

ings in that docket, namely, that the one-day suspension ordered therein "... represented a marked departure from previous Commission policy that generally was to order a five-month suspension where intervenors raised serious questions as to the validity of the rates sought." NCPA contends that the one-day suspension must be reexamined in light of its "price squeeze" allegations raised in that proceeding, since those allegations were apparently not considered when the increase was suspended because of the Commission's view at that time that it did not have jurisdiction to remedy the alleged discrimination. The one-day suspension was detrimental to its member cities in many ways, NCPA submits. A five-month suspension, which it now seeks, could "partially rectify that harm * * *"

The one-day suspension ordered in Docket No. E-8928 was based upon the Commission's review of the filing therein and all responsive pleadings. NCPA's September 24, 1976, pleading has not presented any new facts or legal principles which justify a lengthening of that suspension at this time. Accordingly, NCPA's motion for reconsideration of the suspension period ordered in Docket No. E-8928 must be denied.⁸

The Commission finds: (1) NCPA's September 24, 1976, application for rehearing and motion for expedited hearing in Docket No. ER76-811 presents no facts or legal principles which justify any modification of the suspension period ordered or the procedures established in our August 25, 1976, order in that docket.

(2) NCPA's motion for reconsideration presents no facts or legal principles which warrant a change in the one-day suspension period previously ordered in Docket No. E-8928.

The Commission orders: (A) NCPA's application for rehearing and motion for expedited hearing in Docket No. ER76-811 are hereby denied.

(B) NCPA's motion for reconsideration in Docket No. E-8928 is hereby denied.

(C) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31990 Filed 11-1-76; 8:45 am]

¹ The Commission's August 22, 1974 and October 22, 1974, orders in Docket No. E-8928 were appealed in *NCPA, et al. v. F.P.C.* (Ninth Circuit No. 74-3430), wherein petitioner challenged the Commission's one-day suspension of the PG&E filing and its exclusion of the "price squeeze" issue. By order dated June 22, 1976, the court granted the Commission's motion for remand in light of the Supreme Court's decision in *Conway*. Evidence on the "price squeeze" issue has now been presented and cross-examined in Docket No. E-8928; that issue and numerous other issues are now ripe for decision by the Presiding Administrative Law Judge.

² See n. 6, *supra*.

³ *Conway Corp. v. F.P.C.* *supra* n. 2.

⁴ See ordering paragraphs (C) and (D) of the August 25, 1976, order in this docket.

⁵ The length of suspension is committed to the Commission's discretion. *Municipal Light Boards of Reading and Wakefield, Mass. v. F.P.C.*, 450 F.2d 1341, 1348-1352 (D.C. Cir.), cert. denied 405 U.S. 989 (1971).

¹ Sierra Pacific Power Company, City of Alameda, Bay Point Light and Power Company, California Pacific Utilities Company, City of Healdsburg, City of Lodi, City of Lompoc, City of Santa Clara, City of Ukiah, and City of Palo Alto.

² See *Conway Corp. v. F.P.C.*, 510 F.2d 1264 (D.C. Cir. 1975), *aff'd* ___ U.S. ___ (No. 75-342, decided June 7, 1976).

³ These comparisons are set forth in Appendices A and B to NCPA's application for rehearing.

[Docket Nos. ES76-78, ES76-79]

PACIFIC POWER AND LIGHT CO.**Order Authorizing the Issuance of Common Stock and First Mortgage Bonds**

OCTOBER 26, 1976.

Pacific Power & Light Company (Applicant), on September 20, 1976 (Docket No. ES76-78) filed an application with the Commission, pursuant to Section 204 of the Federal Power Act, for authority to issue 2,000,000 additional shares of common stock, par value \$3.25 per share and on September 21, 1976, (Docket No. ES76-79) filed an application for authority to issue \$50,000,000 principal amount of First Mortgage Bonds, due 2006, both proposed security issuances to be marketed via competitive bidding.

Applicant is incorporated under the laws of the State of Maine, with its principal business office at Portland, Oregon, and is qualified to do business as a foreign corporation in the States of Oregon, Wyoming, Washington, California, Montana and Idaho. Applicant is primarily engaged in the generation, transmission, distribution and sale of electrical energy but is also engaged in providing steam heating, water and telephone service to a minor extent.

The net proceeds to be derived from the proposed issuance of common stock and first mortgage bonds will be used to repay short-term debt and to finance Applicant's construction program.

The Applicant proposes to sell the additional common stock at competitive bidding in accordance with the applicable requirements of Section 34.1a of the Commission's Regulations under the Federal Power Act. Applicant proposes publicly to invite bids for the purchase from it of the shares of common stock.

The Applicant proposes to sell the Bonds at competitive bidding in accordance with the applicable requirements of Section 34.1a of the Commission's Regulations under the Federal Power Act. Applicant proposes publicly to invite bids for the purchase from it of the Bonds. Bidders for the Bonds will be asked to specify the interest rate to be borne thereby (which shall be a multiple of $\frac{1}{8}$ of 1%) and the price (exclusive of accrued interest) to be paid to Applicant therefor (which shall not be less than 98 $\frac{1}{2}$ % nor more than 102 $\frac{1}{4}$ % of the principal amount thereof).

No person has received or will be entitled to receive from Applicant any fee for services in connection with the negotiation or consummation of the issuance or sale of the common stocks and Bonds, other than fees for legal, accounting or similar professional or technical services, or for services in securing underwriters, sellers or purchasers, other than fees to be included in any competitive bid for the purchase of the securities.

Written notice of the application has been given to the Public Utility Commission of Oregon, the Public Service Commission of Wyoming, the Utilities and Transportation Commission of Washington, the Public Utilities Commission of California, the Public Service Commission of Montana, the Public Utilities

Commission of Idaho and to the Governor of each of those States. Notice has also been given by publication in the FEDERAL REGISTER, stating that any person desiring to be heard or to make any protest should on or before October 21, 1976, file petitions or protests with the Federal Power Commission, Washington, D.C. 20426. No petition, protest or request to be heard in opposition to the granting of the application has been received.

The Commission finds: (1) Applicant, a corporation, is a public utility within the meaning of Section 204 of the Federal Power Act, subject to the jurisdiction of the Commission as heretofore determined and set forth in the Commission's order issued March 28, 1962, *Pacific Power & Light Company*, Docket No. E-7025.

(2) The proposed issuance and sale of common stocks and first mortgage bonds, as described above, will constitute an issuance of securities within the purview of Section 204 of the Act.

(3) Applicant is not organized and operating in a State under the laws of which the security issue here involved is regulated by a State commission within the meaning of Section 204(f) of the Act; and the proposed issuance is, therefore, not exempt by virtue of that section from the requirements of Section 204 of the Act.

(4) The proposed issuance and sale of securities, as hereinafter authorized, will be for a lawful object, within the corporate purposes of the Applicant and compatible with the proper performance by Applicant of service as a public utility and which will not impair its ability to perform that service and is reasonably necessary and appropriate for such purposes.

(5) The period of public notice given in this matter is reasonable.

The Commission orders: (A) The proposed issuance and sale of 2,000,000 additional shares of Common Stock, par value \$3.25 per share and \$50,000,000 principal amount of First Mortgage Bonds, due 2006, upon the terms and conditions and for the purposes specified in the application, are hereby authorized subject to the provisions of this order.

(B) If, pursuant to a public invitation, at least two independent proposals for the purchase or underwriting of the issuance of \$50 million principal amount of First Mortgage Bonds, are received, the Applicant may without further order of or filing with the Commission, issue or sell the said First Mortgage Bonds in accordance with the terms and conditions contained in the application, provided the securities are sold to the bidder or bidders offering to the company the lowest annual cost of money.

(C) If, pursuant to a public invitation at least two independent proposals for the purchase or underwriting of the issuance of 2,000,000 additional shares of Common Stock, par value \$3.25 per share, are received, the Applicant may without further order of or filing with the Commission, issue or sell the said common stock in accordance with the terms con-

tained in the application, provided the common stock is sold, (1) in the case of common stock sold on a rights offering, to the bidder or bidders specifying the lowest aggregate amount of compensation to be paid by the issuer, or (2) in the case of common stock sold on a straight sale and not on a rights offering, to the bidder or bidders specifying the highest total price to be paid to the company.

(D) The Applicant shall amend its application pursuant to the requirements of Section 34.9(c) of the Commission's Regulations under the Federal Power Act, within ten (10) days after the consummation of each of the above mentioned transactions.

(E) This authorization shall expire unless the transactions hereby authorized are consummated within 90 days from the date of issuance of this order.

(F) The foregoing authorization is without prejudice to the authority of this Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of cost or any other matter whatsoever now pending or which may come before this Commission.

(G) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States with respect to any security to which this order relates.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31981 Filed 11-1-76; 8:45 am]

[Docket No. E-9571]

POTOMAC EDISON CO.**Petition**

OCTOBER 22, 1976.

Take notice that on October 6, 1976, the Town of Thurmont, Maryland, filed a "Petition of the Town of Thurmont for Emergency Declaratory Order or Alternative Petition for Emergency Interconnection under section 202(c) of the Federal Power Act." By such petition Thurmont requests that the Commission issue an order requiring Potomac Edison Company to initiate high voltage service to it. Thurmont presently receives low voltage service from Potomac Edison Company.

Pursuant to § 1.9(a) of the Commission's Rules of Practice and Procedure, answers to said petition shall be filed with the Commission on or before November 5, 1976.

Any person desiring to be heard or to protest said petition should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 9, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants

parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of said petition are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31970 Filed 11-1-76; 8:45 am]

[Docket No. ER77-9]

PUGET SOUND POWER AND LIGHT CO.
Filing of Power Sales Contract

OCTOBER 22, 1976.

Take notice that on October 5, 1976, Puget Sound Power & Light Company (Puget) tendered for filing a Power Sales Contract with Utah Power & Light Company (Utah). Puget states that service under the Contract commenced September 1, 1976; accordingly, it requests that the instant filing be permitted to become effective as of that date and that the notice requirement of the Commission's Regulations be waived.

Puget states that the power which is the subject of the Contract is being purchased by Utah to make up for deficiencies in Utah's resources due to a protracted forced outage at its Huntington Project. The sale is expected to continue through August, 1977, and to produce total revenue of approximately \$14.9 million, according to Puget.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 1, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31996 Filed 11-1-76; 8:45 am]

RATON NATURAL GAS CO.

Change in Rates

OCTOBER 26, 1976.

Take notice that Raton Natural Gas Company (Raton) on October 8, 1976, tendered for filing proposed changes in its FPC Gas Tariff, Volume No. 1, consisting of Thirteenth Revised Sheet No. 3a. The change in rates is for jurisdictional Gas Service, and the requested effective date is October 27, 1976.

Raton states that the instant notice of change in rates is occasioned solely by, and will compensate Raton only for, increases in the cost of gas purchased from Colorado Interstate Gas Company (CIG). The tracking of CIG gas cost increase of 15.35¢ per MCF of Commodity

results in increased rates to 95.54¢ per MCF Commodity. The annual revenue increase by reason of the tracking amounts to \$175,914.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 4, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene.

Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31964 Filed 11-1-76; 8:45 am]

[Project No. 1862]

TACOMA, WASHINGTON
Order Providing for Hearing

OCTOBER 26, 1976.

A filing entitled "Petition for Rehearing, Reopening, Review or Such Other Relief as the Commission May Deem Proper" (petition) was filed on behalf of the Nisqually Indian Tribe (Petitioner) on December 24, 1974. The petition concerns the Second Nisqually Project No. 1862 licensed to the City of Tacoma, Washington (Tacoma). The alleged basis of the petition is that the project is located on lands of the Nisqually Indian Reservation (Reservation). The project was licensed on November 27, 1944.

In the petition, it is alleged that neither the Commission nor the Petitioner was notified that the project would involve lands of the Reservation and would appropriate the treaty rights to hunt and fish at all usual and accustomed grounds and stations. Petitioner also claims that they were not notified of Tacoma's application for license. The Petitioner suggests that Tacoma should not be allowed to profit from its failure to notify the Commission that the Reservation would be affected. It is further stated that petitioner has suffered extensive damage by the construction and operation of the project. Petitioner requests that the Commission impose certain conditions which might include rental fees for use of lands and other property rights, an annual damage award, and the construction of fish facilities. The Petitioner also requests an increase in the power rates to customers of Tacoma in order to pay for and compensate Petitioner for rent, damages, and preservation of fish runs.

Tacoma was given an opportunity to respond to the petition and did so on March 3, 1975. In its answer, Tacoma denies that petitioner has any rights or interests in lands within the project

that were not taken legally. Tacoma states that their land acquisition program was made in good faith and that Petitioner's claimed interest in the land was not disclosed in a title search. Tacoma further denies that there has been any misappropriation, interference, or damages.

Tacoma sets forth several items entitled "affirmative defense" which include that the rights and obligations of the parties had been determined with finality, that the petition was untimely, that the Commission lacks jurisdiction to grant relief or determine damages, and that the Petitioner has not stated grounds in support of a claim upon which relief can be granted.

Concerning the money damages claimed by the Petitioner Section 10(c) of the Federal Power Act (Act) provides that the licensee shall be liable for damages caused to property by the operation of the project works.¹ Without commenting on the merits of Petitioner's claim for damages, Petitioner correctly states that they can be compensated for damages. However, as we stated in *Idaho Power Company*, Project No. 1971, 29 FPC 572 (1963):

The Federal Power Commission is not the forum in which to litigate the issue of negligence and to determine the amount of damages.

That order further states that the Commission has no authority to order compensation and that such authority is vested in the several District Courts of the United States. *Seaboard Air Line R. Co. v. County of Crisp*, 280 F.2d 873 (5th Cir. 1960), cert. denied 364 U.S. 942 (1961). Therefore, this Commission is the wrong forum for Petitioner to bring its damage claims. However, the Commission does have the authority to change project operation for the protection of life, health, and property. We are ordering a hearing on whether or not project operation should be altered in order to protect life, health, and property.

We believe that it is unnecessary to reach the question of whether or not we should order an increase in the rates that Tacoma charges its customers. The financing of any new liabilities that might be incurred by Tacoma as a result of this proceeding is a decision to be made, at least initially, by Tacoma. Because we have found that the awarding of money damages is not within our jurisdiction, it is unnecessary to consider the question of increasing power rates for that purpose. Of course cost considerations may be germane to disposition of the other issues of this proceeding.

The question as to whether or not the project involves a reservation within the meaning of Section 3(2) of the Act is at the outset a factual dispute. We are, therefore, ordering a hearing to determine if the project involves Petitioner's lands within the definition of reserva-

¹ 16 U.S.C. § 803(c).

² The requirements of Section 10(c) are incorporated in the license as Article 17.

³ 16 U.S.C. § 796(2).

tion contained in Section 3(2) of the Act. The issue of annual charges will be reached if the project involves a reservation within the meaning of the Act. As discussed below we are also ordering a hearing on the need for fish facilities at the project. As noted above, the issue of whether or not project operations should be altered for the protection of life, health and property will be considered in the hearing.

Petitioner also requested that Tacoma be ordered to provide fish ladders, fish hatcheries, and other fish facilities. The State of Washington, Departments of Fisheries and Game in their petition to intervene stated that by law they are to be consulted in determining losses of fisheries resources and in identifying appropriate measures to preserve and enhance those resources. The Departments indicated that the problem of the Second Nisqually Project in relation to the fisheries resources is one of flow fluctuations and flow regimen, but they do not mention the need for facilities such as fish ladders. Therefore, the problem is, more appropriately, the effect of the project on the fisheries resource and what remedial measures, if any, should be taken, but not necessarily the need for additional facilities.

Public notice of the filing of the complaint was issued on December 16, 1975. On February 9, 1976, and February 10, 1976, petitions to intervene were filed by the Puyallup Indian Tribe and the State of Washington, Department of Fisheries and Department of Game, respectively. By our order of March 19, 1976, we granted intervention to the Tribe and the Departments.

The Commission finds: (1) It is appropriate and in the public interest for the purposes of the Federal Power Act to hold a hearing, as hereinafter provided, to determine if the Second Nisqually Project No. 1862 involves a reservation and if reservation lands are within the project boundary, the amount of annual charges to be assessed, if there should be a change in project operation, and if the project has an effect on the fisheries resources and if any remedial measures are necessary.

(2) It is appropriate and in the public interest for the purposes of the Federal Power Act to dismiss without prejudice Petitioner's request for damages and an increase in power rates.

The Commission orders: (A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission, by the Federal Power Act, particularly sections 4 (e), 10(a), 10(e), and 308 thereof, and the Commission's Rules of Practice and Procedure, an initial conference shall be held at 9:30 a.m. on December 7, 1976, in a hearing room of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. respecting the matters involved and the issues presented in finding (1) above.

(B) A Presiding Administrative Law Judge, to be designated by the Chief Administrative Law Judge for that purpose pursuant to § 3.5(d) of the Commission's

Regulations, 18 CFR 3.5(d) (1976), shall preside at the hearing in this proceeding, with authority to establish and change all procedural dates and to rule on all motions with the exceptions of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Commission's Rules of Practice and Procedure.

(C) The Commission's Rules of Practice and Procedure shall apply in this proceeding except to the extent they are modified and supplemented herein.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31986 Filed 11-1-76; 8:45 am]

[Docket No. CP77-25]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

OCTOBER 26, 1976.

Take notice that September 28, 1976, Transcontinental Gas Pipe Line Corporation (Transco), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP77-25 a request for an interpretation of the applicability of Section 157.22(a) of the Commission's Regulations under the Natural Gas Act (18 CFR 157.22(a)), or, in the alternative, an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Transco to render an emergency storage service for 30 of its customers as set forth in the appendix hereto, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is asserted that Transco has entered into arrangements with Consolidated Gas Supply Corporation (Consolidated) providing for the latter to render an emergency storage service to Transco of 5,000,000 Mcf of gas for the 1976-77 winter season, on a best-efforts basis. Transco states that injections under the emergency service commenced on September 3, 1976, and will continue for a period of not more than 60 consecutive days. Transco further states that withdrawals would commence on a mutually agreed-upon date during the 1976-77 winter season and would be limited to a period of not more than 60 consecutive days. It is indicated that the agreed-upon rate for this service is 26.0 cents per Mcf of gas stored for Transco. Transco states that it has allocated this emergency storage service to its contract demand and firm industrial contract customers desiring such service on the basis of relative contractual entitlements and would charge the participating customers the same 26.0 cents per Mcf being charged by Consolidated.

Notwithstanding the Commission's interpretation enunciated in *Cascade Natural Gas Corporation*, Docket No. CP74-142 (52 FPC 168) that Section 157.22 of the Regulations applies only to transactions between jurisdictional pipelines, Transco requests an interpre-

tation that the emergency storage service for its customers can be consummated within the contemplation of Section 157.22(a). In the alternative, Transco requests a certificate of public convenience and necessity pursuant to section 7(c) of the Natural Gas Act authorizing such emergency storage service.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 17, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Power Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

ALLOCATION OF EMERGENCY STORAGE SERVICE (Volumes in Mcf at 14.7 psia)

Buyer:	Volume
Atlanta Gas Light.....	293,280
Brooklyn Union Gas.....	351,763
Carolina Pipeline.....	79,862
Clinton-Newberry.....	24,804
Commonwealth.....	175,805
Danville, Va.....	70,867
Delmarva.....	149,366
Eastern Shore.....	62,417
Fort Hill.....	25,051
Greenwood, S.C.....	20,041
Laurens, S.C.....	15,031
Lexington, N.C.....	20,041
Linden, Ala.....	5,451
LILCO.....	406,314
North Carolina Natural.....	384,317
Owens-Corning.....	27,257
Penn. Gas and Water.....	120,245
Phila. Electric.....	300,612
Phila. Gas Works.....	275,561
Piedmont.....	559,304
Pub. Ser. of N.C.....	412,663
Pub. Ser. Electric and Gas Co.....	609,163

Buyer:	Volume
Shelby, N.C.	17, 171
South Jersey	338, 799
Southwestern Va. Gas	15, 944
Union, S.C.	10, 020
Union Gas Co.	40, 082
United Cities Gas Co.:	
Georgia Div.	22, 078
N.C. and S.C. Div.	26, 984
Washington Gas	149, 911
Total	5, 010, 204

[FR Doc.76-32014 Filed 11-1-76;8:45 am]

[Docket No. RP75-75 (AP77-1)]

TRANSCONTINENTAL GAS PIPE LINE CORP.**Tariff Filing**

OCTOBER 22, 1976.

Take notice that Transcontinental Gas Pipe Line Corporation (Transco) on October 15, 1976, tendered for filing certain revised tariff sheets to its FPC Gas Tariff, First Revised Volume No. 1 and Original Volume No. 2 to become effective December 1, 1976. Transco states that the purpose of the filing is to "track" advance payments made by Transco and Transco Gas Supply Company (Gasco) in accordance with Article V, as amended by Order issued May 28, 1976 in Gasco's Docket No. CP76-3, of the "Agreement as to Rates" in Docket No. RP75-75 which agreement was accepted by Commission Order issued January 30, 1976 in such docket.

The revised tariff sheets filed to be effective December 1, 1976 reflect a "tracking" increase of 0.3¢ per Mcf as a result of inclusion in rate base of \$13,604,871 which amount represents the net increase in advance payment amounts not previously reflected in rates.

The Company states that copies of the filing have been mailed to each of its jurisdictional customers and interested State Commissions.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before November 18, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31976 Filed 11-1-76;8:45 am]

[Docket No. RP75-109]

**UNITED GAS PIPE LINE CO.
Settlement Conference**

OCTOBER 26, 1976.

Take notice that an informal settlement conference in the referenced proceeding will commence at 10:00 a.m. on November 11, 1976, in Room 5200 of the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-31962 Filed 11-1-76;8:45 am]

[Project No. 2153]

UNITED WATER CONSERVATION DISTRICT**Authorization of Project Alterations**

OCTOBER 21, 1976.

United Water Conservation District, Licensee for the Santa Felicia Project No. 2153, requested by letter dated April 7, 1976, and supplemented May 7, 1976, that the Commission approve its plan to extend the intake shaft of Santa Felicia dam to elevation 930.0 feet. The purpose of the proposed alteration is to raise the sill of the intake shaft above the sediment accumulations in the reservoir.

The dam and outlet structure of Santa Felicia Project were constructed in 1955. By 1969, sediments which had accumulated over the intervening years sealed the 10-foot by 8-foot side openings to the intake shaft. Licensee then installed a temporary extension on the intake shaft to raise the sill above the sediments. Licensee now proposes to install a permanent extension on the intake shaft. The proposed extension consists of a 6.5-foot inside diameter reinforced concrete pipe with its sill at elevation 930.0 feet. It would extend forty feet above the original intake sill at elevation 890.0 feet and twenty-five feet above the existing sediments.

The permanent intake shaft extension will be installed by underwater divers. It is anticipated that the reservoir will not be emptied during construction. Should Licensee be unable to complete the installation using divers, it will be required to obtain Commission approval before draining the entire reservoir. Underwater installation will necessitate lowering the reservoir from elevation 976 feet to elevation 925 feet. During that time, no recreational activities would be permitted on the reservoir.

The period between the completion of construction and the onset of high water temperatures in the reservoir will be less than the normal trout season; therefore, there will be no stocking of trout following the proposed construction. Warm-water fish are expected to survive the

reduced water levels and should, along with water skiing, be available for the summer of 1977.

Because the installation will be completed during a three-month period, and because the aforementioned effects are the only impacts expected to result from the proposed construction, we conclude that approval of the proposed installation would not constitute a major Federal action significantly affecting the quality of the human environment and therefore would not require preparation of an environmental impact statement pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969.

Licensee has requested the use of the shortened procedure provided for by Section 1.32(b) of the Commission's Rules of Practice and Procedure, 18 CFR § 1.32 (b) (1975).

At a hearing held on October 13, 1976, the Commission on its own motion received and made a part of the record in this proceeding all pleadings, submittals, and other evidence filed in regard to the application here at issue, and upon consideration of the record.

The Commission finds: (1) It is appropriate for the purposes of the Federal Power Act and in the public interest that the application of the United Water Conservation District for authorization to install a permanent extension on the intake shaft be approved.

(2) Approval of the application would not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of Section 102(2)(c) of the National Environmental Policy Act of 1969; therefore, no environmental impact statement is required.

The Commission orders. (A) The United Water Conservation District, Licensee for the Santa Felicia Project No. 2153, is hereby authorized to extend the intake shaft of Santa Felicia dam to elevation 930.0 feet, in accordance with the "Application for Approval of Plans and Specifications for the Repair or Alteration of a Dam or Reservoir" submitted April 7, 1976, and supplemented by revised drawings submitted May 7, 1976.

(B) Licensee is hereby authorized to draw down the reservoir from the normal minimum water surface elevation of 976 feet to an elevation of 925 feet to accomplish the above noted installation. If the installation cannot be performed underwater, and it becomes necessary to drain the lake completely to complete installation, Licensee must obtain prior approval from the Commission; as the environmental effects of completely draining the reservoir would be significantly greater than the proposed fluctuation in surface elevation.

(C) Licensee shall publish in a local newspaper of general circulation, notice

of the proposed construction, and shall post signs at the site of the reservoir indicating the times when recreational activities will not be permitted.

(D) Licensee shall file revised as-built Exhibit L drawings for Commission approval within six months after completion of the installation.

By the Commission,

KENNETH F. PLUMB,
Secretary.

In testimony of its acknowledgment of acceptance of all of the provisions, terms and conditions of the foregoing authorization, United Water Conservation District, this day of _____, 1976, has caused its corporate name to be signed hereto by _____ its _____ President, and its corporate seal to be affixed hereto and attested by _____ its _____ Secretary, pursuant to a resolution of its Board of Directors duly adopted on the day of _____, 19____, a certified copy of the record of which is attached hereto.

By _____
President

Attest:

Secretary

(Executed in quadruplicate.)

[FR Doc. 76-31967 Filed 11-1-76; 8:45 am]

[Docket Nos. G-7158, G-7160]

WARREN PETROLEUM CO., A DIVISION OF GULF OIL CORP.

Findings and Order After Statutory Hearing Permitting and Approving Abandonment of Service and Accepting Related Rate Schedule Filing

OCTOBER 26, 1976.

Warren Petroleum Company (Warren), a division of Gulf Oil Corporation (Gulf), has filed pursuant to Section 7 (b) of the Natural Gas Act an application for permission and approval to abandon the sale of casinghead gas to El Paso Natural Gas Company (El Paso) from four wells located in the Blinberry Oil and Gas Pool, Lea County, New Mexico (Permian Basin Area), because the wells have been reclassified from oil wells to gas wells by the New Mexico Oil Conservation Commission (NMOCC), all as more fully set forth in the tabulation.

Heretofore, the oil-well gas was gathered and processed in the Eunice Plant and the residue gas derived therefrom sold to El Paso under Warren's FPC Gas Rate Schedule No. 44, pursuant to authorization granted in Docket No. G-7158. The gas-well gas from the reclassified wells is already dedicated to an existing contract with Northern Natural Gas Company (Northern) executed between Gulf and Northern dated February 18, 1952, as amended, on file as Gulf's FPC Gas Rate Schedule No. 15 for which certificate authorization was issued in Docket No. G-7160.

Warren's application to abandon service also includes a request to amend Gulf's certificate previously issued in Docket No. G-7160 to include the sale from the reclassified wells. Since the certificate as previously issued authorized sales under Gulf's Rate Schedule

No. 15, the request to amend should be dismissed as moot.

After due notice by publication in the FEDERAL REGISTER, Pacific Gas and Electric Company filed on February 26, 1976, a petition to intervene and participate in any hearings in these proceedings but did not request a formal hearing. No protests or petitions to intervene in opposition to the proposed abandonment have been filed.

At a hearing held on October 20, 1976, the Commission on its own motion received and made a part of the record in this proceeding all evidence, including the applications, submitted in support of the authorizations sought herein, and upon consideration of the record,

The Commission finds: (1) Applicant herein is a "natural-gas company" within the meaning of the Natural Gas Act as heretofore found by the Commission.

(2) It is necessary and appropriate in carrying out the provisions of the Nat-

ural Gas Act that the FPC gas rate schedule supplement related to the authorization hereinafter granted should be accepted for filing.

The Commission orders: (A) Permission for approval of the abandonment of service by Applicant, as hereinbefore described and as more fully described in the application and tabulation herein, is granted.

(B) The rate schedule supplement related to the authorization granted herein is accepted for filing, all as more fully set forth in the tabulation herein.

(C) Pacific Gas and Electric Company's petition to intervene is granted.

(D) Warren's request to amend Gulf's certificate previously issued in Docket No. G-7160 to include the sale from the reclassified wells, is dismissed as moot.

By the Commission.

KENNETH F. PLUMB,
Secretary.

Docket No. and date filed	Applicant	Purchaser and location	FPC gas rate schedule		
			Description and date of document	Number	Supplement
G-7158 B 1-16-76	Warren Petroleum Co., a division of Gulf Oil Corp. (operator).	El Paso Natural Gas Co. (Blinberry Oil and Gas Pool—Eunice Gas Processing Plant, Lea County, N. Mex. Permian Basin area). ²	Notice of partial cancellation. ¹	44	19

¹ The effective date is the date of this order.

² Harry Leonard NCT-E Well No. 4, Eubank Well No. 2, Rollon Brunson Well No. 4, and Mark Well No. 3.

³ Consists of 3 letters dated Nov. 1, 1974, Feb. 28, 1975, and June 13, 1976 from the New Mexico Oil Conservation Commission informing Gulf that wells have been reclassified from oil wells to gas wells.

Filing code: A—Initial service.
B—Abandonment.
C—Amendment to add acreage.
D—Amendment to delete acreage.
E—Total succession.
F—Partial succession.

[FR Doc. 76-31957 Filed 11-1-76; 8:45 am]

[Docket No. ER77-14]

WISCONSIN POWER AND LIGHT CO. Filing Amendment to Wholesale Power Agreement

OCTOBER 26, 1976.

Take notice that on October 12, 1976, Wisconsin Power and Light Company (WPL) tendered for filing an Amendment to Wholesale Power Agreement dated May 26, 1976, between Waushara Electric Cooperative and WPL. WPL states that this Amendment will amend an existing Wholesale Power Agreement between Waushara Electric Cooperative and WPL dated May 28, 1975, by providing an additional 69 KV delivery point.

WPL requests an effective date of July 2, 1976 which was the date that service at this delivery point was first furnished.

WPL states that a copy of the Amendment To Wholesale Power Agreement and the filing have been sent to Waushara Electric Cooperative.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Power Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions should be filed on or before

November 9, 1976. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 76-31989 Filed 11-1-76; 8:45 am]

[Docket No. CS76-546]

L & M OIL AND GAS COMPANY, INC. Petition for Declaratory Order

OCTOBER 28, 1976.

Take notice that on October 22, 1976, L & M Oil and Gas Company, Inc. (Petitioner), 1700 Pennsylvania Avenue, N.W., Washington, D.C. 20006, filed pursuant to § 1.7(c) of the Commission's rules of practice and procedure (18 CFR 1.7(c)), a petition for an order declaring that no additional certificate authorization is necessary for the sale of natural gas or for the construction, operation and maintenance of all facilities required in support of said sale, as described below. Petitioner was issued a small producer certificate in Docket No. CS76-546 by Commission order issued July 8, 1976.

Petitioner is the owner of developed natural gas reserves and production near Leitchfield, Grayson County, Kentucky and has entered into a sales contract with Midwestern Gas Transmission Company. Pursuant to the terms of the agreement, Petitioner will make deliveries at a point on Midwestern's pipeline. The price for such sale conforms to Opinion No. 742, as amended, commencing January 1, 1977 at \$1.44 per Mcf with quarterly escalations of 1.0¢ per Mcf per quarter on the first days of April, July, October and January, thereafter. In order to effectuate delivery to Midwestern at the point prescribed in the agreement, Petitioner will have to construct, operate and maintain a sales transportation facility of some 23.8 miles, together with other facilities needed to process, gather and compress the gas from the approximately 30 wells supporting the sale.

Petitioner has entered into a Loan Agreement with The Equitable Life Assurance Society of the United States (Equitable) for the funds required for the development of these production properties and the construction and operation of the necessary facilities. Petitioner believes that under its small producer certificate it has all of the authorization it is required to obtain, but Equitable wants specific assurance from the Commission that such is the case before it makes the loan.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 15 days for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before November 10, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure at (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-32150 Filed 10-29-76; 12:13 pm]

[Docket Nos. RI76-117, etc.]

SUN OIL CO. ET AL.

Amended Petition for Special Relief

OCTOBER 28, 1976.

In the matter of Sun Oil Company, Docket No. RI76-117; Anadarko Production Company, Docket No. RI76-119; Northern Michigan Exploration Company, Docket No. RI76-132; Clark Oil Producing Company, Docket No. RI76-133; Diamond Shamrock Corporation, Docket No. RI76-135.

Take notice that on October 22, 1976, Northern Michigan Exploration Company (Petitioner), 212 West Michigan Avenue, Jackson, Michigan 49201, filed a proposed settlement agreement in the above-captioned dockets which amends its petition for special relief filed June 14, 1976,¹ for natural gas produced in waters more than 250 feet deep, pursuant to Section 2.56a(g)(2) of the Commission's Rules of Practice and Procedure. By this amendment petitioner seeks a rate of approximately \$1.46 per Mcf until December 31, 1976, and thereafter commencing January 1, 1977, a rate of approximately \$1.55 per Mcf for all gas attributable to its 12.5 percent working interest in West Cameron Block 639, Off-shore Louisiana. Petitioner, on the basis of the record submitted to date, was seeking a comparable rate of no less than approximately \$1.86.

Any person desiring to be heard or to make any protest with reference to said petition should on or before November 9, 1976, file with the Federal Power Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any party wishing to become a party to a proceeding, or to participate as a party in any hearing therein, must file a petition to intervene in accordance with the Commission's rules.

KENNETH F. PLUMB,
Secretary.

[FR Doc.76-32151 Filed 10-29-76; 12:14 pm]

NATIONAL ADVISORY COUNCIL ON THE EDUCATION OF DISADVANTAGED CHILDREN

COUNCIL MEETING

Notice is hereby given, pursuant to Pub. L. 92-463, that the next meeting of the National Advisory Council on the Education of Disadvantaged Children will be held at Parma Senior High School in Parma, Ohio on November 19, 1976 from 4:00-7:00 pm and on November 20, 1976 from 11:30 am-4:30 pm at the Supplementary Education Center in Cleveland, Ohio.

Site visits to John Hay Annex, Cleveland, Rawlings Junior High School, Cleveland, Kennard Junior High School, Cleveland and East Cleveland will occur November 19 and 20th commencing at 9:00 am.

The National Advisory Council on the Education of Disadvantaged Children is established under section 148 of the Elementary and Secondary Act (20 U.S.C. 2411) to advise the President and the Congress on the effectiveness of compensatory education to improve the educational attainment of disadvantaged children.

¹ Notice issued June 22, 1976.

The purpose of the Council Meeting is to further review and outline sections of the 1977 Annual Report and to assess the Council observations of the site visits to Title I schools.

Because of limited space, all persons wishing to attend should call for reservations by November 14, 1976 area code 202/382-6945.

Records shall be kept of all Committee proceedings and shall be available for public inspection at the Office of the National Advisory Council on the Education of Disadvantaged Children, located at 425 Thirteenth Street, N.W., Suite 1012, Washington, D.C. 20004.

Signed at Washington, D.C., on October 28, 1976.

ROBERTA LOVENHEIM,
Executive Director.

[FR Doc.76-32098 Filed 11-1-76; 8:45 am]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (76-94)]

APPLICATIONS STEERING COMMITTEE, AD HOC ADVISORY SUBCOMMITTEE FOR EVALUATION OF SOLAR CONSTANT MEASUREMENT EXPERIMENT PROPOSALS

Meeting

The Applications Steering Committee, Ad Hoc Advisory Subcommittee for Evaluation of Solar Constant Measurement Experiment Proposals will reconvene by way of a telephone conference from 2 p.m. to 4 p.m. on November 24, 1976. Members in the Washington area will meet in Room 226A, NASA Headquarters, FOB 10B, 600 Independence Avenue, S.W.

The Subcommittee will discuss and complete the categorization of proposals for flight on the Solar Maximum Mission. Discussion of the professional qualifications of the proposers and their potential scientific contributions to the Solar Maximum Mission would invade the privacy of the proposers and other individuals involved. Since this Subcommittee session will be concerned throughout with matters listed in 5 U.S.C. 552 (b) (6), it has been determined that the sessions be closed to the public.

For further information, please contact Mr. George Sweet at Area Code 202/755-8620.

Dated: October 27, 1976.

JOHN M. COULTER,
Acting Assistant Administrator
for DOD and Interagency Affairs.

[FR Doc.76-32015 Filed 11-1-76; 8:45 am]

OFFICE OF THE FEDERAL REGISTER NATIONAL FIRE CODES

National Fire Protection Association
Technical Committee Reports; Availability

Correction

In FR Doc. 76-29297, appearing at page 47295 in the issue for Thursday, October 28, 1976, under the center heading "Comments on Reports", in the second para-

graph, the 5th line should read "nical committee documentation will be sent to each com- . . ."

OFFICE OF MANAGEMENT AND BUDGET

BUSINESS ADVISORY COUNCIL ON FEDERAL REPORTS

Public Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Business Advisory Council on Federal Reports to be held in Room 2010, New Executive Office Building, 726 Jackson Place, N.W., Washington, D.C. on November 18, 1976, at 10:00 a.m.

The purpose of the meeting is to conduct Council business such as the Treasurer's Report, Council budget, and reports of various Committees; to hear remarks from the Deputy Associate Director for Statistical Policy; and to receive reports of recent actions by the Office of Management and Budget which affect the reporting of business firms to Federal agencies. The meeting will be open to public observation and participation.

Anyone wishing to participate should contact the Deputy Associate Director for Statistical Policy, Room 10202, New Executive Office Building, Washington, D.C., 20503, Telephone (202) 395-3730.

VELMA N. BALDWIN,
Assistant to the Director
for Administration.

[FR Doc.76-32060 Filed 11-1-76;8:45 am]

OFFICE OF MANAGEMENT AND BUDGET

EXECUTIVE, LEGISLATIVE, AND JUDICIAL SALARIES

Closed Meeting

Pursuant to Pub. L. No. 92-463, notice is hereby given of a closed meeting of the Commission on Executive, Legislative, and Judicial Salaries to be held in Room 248, Old Executive Building, 17th Street and Pennsylvania Avenue, N.W., Washington, D.C. 20500 on November 17, 1976 at 9:00 a.m.

The purpose of this meeting is to continue and complete the unfinished business of the meeting of November 16, concerning the preparation of the final report. It has been determined that the purpose of this meeting will concern matters within section 552(b)(5) of Title 5, United States Code, and therefore shall not be open to the public.

VELMA N. BALDWIN,
Assistant to the Director
for Administration.

[FR Doc.76-32138 Filed 11-1-76;8:45 am]

SECURITIES AND EXCHANGE COMMISSION

Rel. No. 9498; 812-40321

AMERICAN BIRTHRIGHT TRUST

Filing of an Application for an Order Exempting a Proposed Exchange of Shares From Provisions

OCTOBER 27, 1976.

Notice is hereby given that American Birthright Trust ("Applicant" or "ABT"), 210 Royal Palm Way, Palm Beach, Florida 33480, registered under the Investment Company Act of 1940 ("Aca") as an open-end, diversified management investment company, filed an application on September 27, 1976, and amendments thereto on October 14, 15 and 22, 1976, for an order of the Commission pursuant to section 6(c) of the Act exempting from the provisions of sections 22(c) and 22(d) of the Act and Rule 22c-1 thereunder a proposed transaction pursuant to which shares of ABT will be issued at a price other than the current public offering price in exchange for substantially all of the assets of All American Fund, Inc. ("AAF"), a Maryland Corporation in receivership, and at a price other than the price next determined after the receipt of an order to purchase its shares. All interested persons are referred to the application on file with the Commission for a statement of the representations made therein, which are summarized below.

Applicant states that AAF entered into an Agreement and Plan of Reorganization ("Agreement") with ABT dated as of August 20, 1976. The Agreement provides that ABT will acquire substantially all of the assets owned by AAF (which, including securities, had a market value of \$906,652 on August 31, 1976) in exchange for voting shares of capital stock of ABT. The shares of ABT are to be issued at net asset value without a sales charge. Applicant states that when received by AAF the shares of ABT will be distributed to AAF shareholders on a pro-rata basis in accordance with the Receiver's Plan to liquidate and dissolve AAF.

Applicant represents that, pursuant to the Agreement, its shares having an aggregate net asset value equal to the value of AAF's assets to be acquired shall be issued in exchange therefore (the number of shares to be determined by dividing the aggregate market value of AAF's assets to be acquired by the net asset value per share of ABT). It further represents that the net asset value per share of ABT and the market value of the assets of AAF to be acquired by ABT will be determined as of the next business day

following satisfaction (or waiver) of the conditions set forth in the Agreement, or at such other date as may be mutually agreed upon, and that the actual exchange of assets for shares of ABT will be on the next business day (November 15, 1976) after the valuation date. If the valuation under the Agreement had taken place at the close of business on August 31, 1976, approximately 99,742 shares of ABT having a net asset value of \$9.09 each, would have been issued for substantially all of the assets of AAF having an aggregate value of \$906,652 as of that date. Applicant states that it has no present intention of selling any of the securities acquired from AAF following the acquisition other than on the expiration of short-term instruments, if any.

The purchase and sale, as proposed, will be accounted for as a merger transaction and ABT will record the market value of AAF's assets as its cost basis for accounting purposes. However, for tax purposes, ABT will use AAF's cost basis of investments as its basis for cost. ABT will therefore acquire any unrealized appreciation or depreciation AAF may have on its investments. ABT will recognize any capital loss carried forward from the transaction since AAF is considered an open-end investment company for Federal income tax purposes and has accumulated a substantial amount of capital loss carry-forward. Because of these factors, it is anticipated that the transaction will have no adverse tax impact on ABT.

As of August 31, 1976, AAF had available capital losses and a capital loss carryforward in the aggregate amount of \$1,988,072. On that date, ABT had net realized and unrealized appreciation of \$2,559,068, and a capital loss carryforward of \$392,500. ABT accordingly had a reserve for income taxes in the amount of \$649,970. Had the merger been consummated on the above date, the net effect of combining ABT's and AAF's realized and unrealized capital gains and losses, and their applicable capital loss carryforwards would have resulted in a reduction in ABT's tax reserve in the amount of \$596,421, and would have increased ABT's per share net asset value by \$.21. Applicant states that a similar adjustment is expected to be made in the value of ABT's shares when the merger is consummated.

Applicant submits that its investment adviser, American Birthright Trust Management, Inc. ("Adviser") has agreed, if the purchase and sale is consummated, to pay for all fees and expenses of carrying the purchase and sale into effect, except expenses in connection with the liquidation of AAF and the legal

and accounting expenses of AAF in connection with the Agreement. Such expenses will be paid by AAF. Registration fees payable to the Securities and Exchange Commission with respect to the shares of ABT issued in connection with the purchase and sale will be paid by the Adviser. Applicant further submits that if the purchase and sale is not consummated, AAF will pay fees and expenses attributable to it, and the Adviser will pay the fees attributable to ABT other than the fees mentioned above and that all printing costs will be borne by the Adviser in any event.

Applicant states that the consummation of the Agreement is subject to the issuance by the Commission of the Order herein requested, exempting ABT from certain provisions of the Act so that it may exchange its shares in this transaction at net asset value, without a sales charge, and that such net asset value may be determined as of the close of business on the last business day immediately preceding the exchange date. Applicant states that neither AAF nor any of its directors, officers, stockholders or its Receiver is either an "affiliated person" of ABT, or an "affiliated person of such person" as defined in section 2(a)(3) of the Act. ABT's Board of Trustees approved the proposed Agreement at its meeting on September 8, 1976, as being beneficial to its shareholders because among other things, ABT will be able to acquire at one time substantial additional portfolio securities that will be compatible with its investment policies and objectives, and without incurring brokerage commissions.

Section 22(c) of the Act and Rule 22c-1 thereunder taken together provide, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security except at a price based on the current net assets value of such security which is next computed as of the close of trading on the New York Stock Exchange after receipt of an order to purchase such security. Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current offering price described in the Prospectus. The current public offering price of the shares of ABT as described in its Prospectus is net asset value plus a sales charge.

Applicant submits that without exemptions from Section 22(c) and 22(d) of the Act and Rule 22c-1 thereunder, ABT would be prohibited from: (a) exchanging its shares at net asset value, without a sales charge, for substantially all of the assets of AAF; and (b) effecting the transaction on the exchange date based on the market value of the assets of AAF to be transferred and the net asset value per share of ABT, both determined as of the valuation date which is the close of business on the last business day immediately preceding the exchange date. Because the exchange date and the valuation time will be fixed in advance, and

in view of the short time span involved Applicant argues that the possible abuses at which Rule 22c-1 is directed will not exist.

Section 6(c) of the Act provides in pertinent part that the Commission by order upon Application, may conditionally or unconditionally exempt any person or transaction from any provision under the Act or of any rule or regulation thereunder, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant states that in its opinion, the terms of the exchange contemplated by the Agreement are fair and reasonable and in the best interest of Applicant and its shareholders; and that therefore granting of the requested exemptions is consistent with the general purposes of the Act, and is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than November 15, 1976, at 12:30 p.m., submit to the Commission in writing a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reason for his request, and the issues of fact or law proposed to be controverted, or he may request that he be notified if the Commission should order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon the Applicant at the address stated above. Proof of such service (by affidavit or in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the rules and regulations promulgated under the Act, an order disposing of the matter will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 76-32047 Filed 11-1-76; 8:45 am]

[Rel. No. 12921; SR-BSE-76-11]

BOSTON STOCK EXCHANGE

Order Approving Proposed Rule Change

OCTOBER 26, 1976.

On August 25, 1976, the Boston Stock Exchange ("BSE"), 53 State Street, Boston, Massachusetts 02109, filed with the Commission, pursuant to section 19

(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The purpose of the rule change is to effect changes in the BSE's Constitution necessary to allow incorporation of the BSE.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 12756, (September 1, 1976)) and by publication in the FEDERAL REGISTER (41 FR 39107, (September 14, 1976)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 76-32046 Filed 11-1-76; 8:45 am]

[Release No. 34-12895; File No. SR-NYSE-76-52]

NEW YORK STOCK EXCHANGE, INC. Self-Regulatory Organization; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on October 8, 1976, the above mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERM OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The proposed change to Rule 440 would (a) allow for the increase in the transaction fee imposed on the Exchange by the SEC effective January 1, 1976 to be passed on to members and member organizations engaged in clearing or settling transactions effected upon the Exchange; (b) would require members and member organizations to submit payment for the SEC Transaction Fee on a monthly basis when Form 120-A reports are required to be filed with the Exchange.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule change is as follows:

PURPOSE OF PROPOSED RULE CHANGE

The purpose of the change in Rule 440 is to:

(a) Recognize the increased transaction fee imposed by the SEC upon the

Exchange effective January 1, 1976; and
(b) Eliminate the references therein indicating the charge as being billed quarterly by the Exchange to its member organizations and members.

Form 120-A is a form which contains information relating to section 31 of the Securities Exchange Act of 1934 as amended, requiring the Exchange each year to pay to the Securities and Exchange Commission a fee of 1/300th of one per centum of the aggregate dollar amount of the sales of securities (other than bonds, debentures, and other evidences of indebtedness and any sale or any class of sales of securities which the SEC may, by rule, exempt from the imposition of the fee) transacted during the preceding year on such exchange. Consistent with the quarterly billing authorized by the Exchange's Board, Rule 440 prior to the revision approved by the Board on September 2, 1976 referred to the SEC Transaction Fee as being billed quarterly. Under the new practice, payment for the amount of the charge shown on Form 120-A will be due monthly at the time when Form 120-A is filed with the Exchange. In the interests of good business practice, this change will simplify the collection procedure.

BASIS UNDER THE ACT FOR PROPOSED RULE CHANGE

(a) (i) through (iii) and (v) through (viii) not applicable.

(a) (iv) the proposed rule increases the transaction fee due from members and member organizations engaged in clearing or settling transactions effected on the Exchange in accordance with the amendment to section 31 of the Securities Exchange Act of 1934 as amended January 1, 1976 and modifies the time of payment of such fee. This is consistent with the requirements of the Securities Exchange Act of 1934 as amended by the Securities Acts Amendments of 1975.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OF OTHERS ON PROPOSED RULE CHANGE

The Exchange has not solicited comments regarding the proposed change, nor has the Exchange received any comments from members or others.

BURDEN ON COMPETITION

No burden on competition will be imposed by the proposed change to the Supplement to the Rule.

This proposed rule change will take effect immediately in accordance with section 19(b) (3) (A) (ii) as it changes a fee and the method of payment of such fee. At any time within sixty days of the date of filing of this proposed rule change, the Commission summarily may abrogate the change and require it to be filed in accordance with the provision of section 19(b) (1) of the Securities Exchange Act of 1934 ("the Act"), and reviewed in accordance with the provision of paragraph (2) thereof if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in accordance with the Act.

Interested persons are invited to submit written data, views and arguments

concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filings will be also available for inspection and copying at the principal office of the above mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 2, 1976.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

SHIRLEY E. HOLLIS,
Assistant Secretary.

OCTOBER 15, 1976.

[FR Doc.76-32048 Filed 11-1-76;8:45 am]

SMALL BUSINESS ADMINISTRATION

[License No. 05/05-0112]

INTERCAPO, INC.

Issuance of a Small Business Investment Company Notice

On August 5, 1976, a notice was published in the FEDERAL REGISTER (41 FR 32815) stating that an application had been filed by Intercapco, Inc., Investment Plaza, Cleveland, Ohio 44114 with the Small Business Administration (SBA) pursuant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1976)) for a license as a small business investment company.

Interested parties were given until close of business August 20, 1976, to submit their comments to SBA. No comments were received.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 05/05-0112 on October 7, 1976, to Intercapco, Inc., to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011 Small Business Investment Companies.)

Dated: October 21, 1976.

PETER F. McNEISH,
Deputy Associate Administrator,
for Investment.
[FR Doc.76-32076 Filed 11-1-76;8:45 am]

[Proposed License No. 06/06-0186]

SOUTHWEST CAPITAL INC.

Application for a License to Operate as a Small Business Investment Company

Notice is hereby given that an application has been filed with the Small Business Administration (SBA) pur-

suant to § 107.102 of the Regulations governing small business investment companies (13 CFR 107.102 (1976)), under the name of Southwest Capital, Inc., 1920 First Place, Tulsa, Oklahoma 74103, for a license to operate as a small business investment company under the provisions of the Small Business Investment Act of 1958, as amended (the Act), and the Rules and Regulations promulgated thereunder.

The proposed officers and directors and their percentages of stock ownership are as follows:

Donald J. Rubottom, 5820 E. 58th Place, Tulsa, Okla. 74135. President, Director, 10 percent shareholder.
George E. Steinmetz, 3508 E. 75th Street, Tulsa, Okla. 74136. Secretary, Treasurer.
A. Lucille Hitch, 1632 S. Florence Place, Tulsa, Okla. 74104. Assistant Secretary, Assistant Treasurer.
Dan E. Brannin, 2710 S. Utica, Tulsa, Okla. 74114. Director, 20 percent shareholder.
William J. Hardin, 2418 Circle Drive, Bartlesville, Okla. 74003. Director, 10 percent shareholder.
Mack B. Deik, 4924 S. 72nd E. Avenue, Tulsa, Okla. 74145. Director, 10 percent shareholder.
Allan J. Edwards, Jr., 3119 South Columbia Circle, Tulsa, Okla. Director, 10 percent shareholder.
Reece B. Morrell, 4223 East 74th Street, Tulsa, Okla. 74136. Director, Counsel, 5 percent shareholder.
Jack H. Mills, 2996 E. 57th Place, Tulsa, Okla. 74105. Director, 5 percent shareholder.
Louis G. Brannin, 2812 Nighingale, Enid, Okla. 73701. Director, 5 percent shareholder.
James R. Carroll, 3525 E. 70th Place So., Tulsa, Okla. 74136. Director, 5 percent shareholder.
William T. Stewart, 1232 E. 27th Place, Tulsa, Okla. 74114. Director, 5 percent shareholder.
Jack M. Patton, 2732 East 49th Street, Tulsa, Okla. 74105. Director, 5 percent shareholder.
Rhame P. Wood, 2115 Mercury Court, Bartlesville, Okla. 74003. Director, 5 percent shareholder.

The Applicant has only one class of stock authorized. There are 100,000 shares of common stock authorized, and the initial capitalization will be \$500,000.

The Applicant will be managed on a contract basis by Rubottom and Associates, Financial Consultants, 1920 First Place, Tulsa, Oklahoma 74103. The Applicant's president, Donald J. Rubottom, is the proprietor of Rubottom and Associates. This falls within the purview of § 107.809 of SBA Rules and Regulations.

The Applicant will conduct its operations principally in the State of Oklahoma and in other areas within the United States and its territories and possessions as may be approved by SBA from time to time.

Because of the similarity in the Applicant's name with former and existing licensees the Applicant has agreed to change its name upon approval of licensing. Other matters involved in SBA's consideration of the application include the general business reputation and character of Shareholders and management, and the probability of successful operations of the new company in ac-

cordance with the Act and Regulations.

Notice is further given that any person may, not later than on or before November 17, 1976, submit to SBA in writing, comments on the proposed licensing of this company. Any such comments should be addressed to: Associate Administrator for Finance and Investment, Small Business Administration, 1441 "L" Street, NW., Washington, D.C. 20416.

A copy of this notice will be published by the proposed Licensee in a newspaper of general circulation in Tulsa, Oklahoma.

(Catalog of Federal Domestic Assistance Program No. 59-011 Small Business Investment Companies).

Dated: October 20, 1976.

PETER F. McNEISH,
Deputy Associate Administrator
for Investment.

[FR Doc.76-32077 Filed 11-1-76; 8:45 am]

ALBUQUERQUE DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Albuquerque District Advisory Council will hold a public meeting at 10:00 a.m., and terminate at 3:00 p.m., Wednesday, November 17, 1976 at the Chaparral Room of the American Bank of Commerce, Second and Lomas Boulevard, N.W., Albuquerque, New Mexico to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information, write or call Anthony Panagakos, U.S. Small Business Administration, 5000 Marble, N.E., Suite 320, Patio Plaza Building, Albuquerque, New Mexico 87110, 505-474-3574.

Dated: October 22, 1976.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for
Advisory Councils.

[FR Doc.76-32078 Filed 11-1-76; 8:45 am]

HARTFORD DISTRICT ADVISORY COUNCIL

Public Meeting

The Small Business Administration Hartford District Advisory Council will hold a public meeting at 9:30 a.m., Thursday, November 18, 1976, at the Hartford District Office, 4th Floor, 1 Financial Plaza, Hartford, Connecticut, to discuss such matters as may be presented by members, staff of the Small Business Administration, or others present. For further information write or

call Thomas E. Higgins, same address as above, 203-244-2511.

Dated: October 26, 1976.

HENRY V. Z. HYDE, Jr.,
Deputy Advocate for
Advisory Councils.

[FR Doc.76-32079 Filed 11-1-76; 8:45 am]

[Declaration of Disaster Loan Area #1280]

PENNSYLVANIA

Declaration of Disaster Area

As a result of the President's declaration, I find that Adams, Bradford, Columbia, Cumberland, Dauphin, Franklin, Lackawanna, Lancaster, Lebanon, Luzerne, Mifflin, Perry, Schuylkill, Snyder, Susquehanna, Wayne, Wyoming and York Counties, and adjacent counties within the State of Pennsylvania, constitute a disaster area because of damage resulting from severe storms and flooding beginning about October 8, 1976. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on December 20, 1976, and for economic injury until the close of business on July 20, 1977, at:

Small Business Administration, Branch Office, 1500 North Second Street, Harrisburg, PA-17108.

Branch Office, Penn Place, 30 N. Pennsylvania Avenue, Wilkes-Barre, PA 18702.

or other locally announced locations.

Dated: October 21, 1976.

LOUIS F. LAUN,
Acting Administrator.

[FR Doc.76-32080 Filed 11-1-76; 8:45 am]

VETERANS ADMINISTRATION

PRIVACY ACT OF 1974

Systems of Records

The Privacy Act of 1974 (5 U.S.C. 552a (e) (4)), requires that all agencies publish in the FEDERAL REGISTER, at least annually, a notice of the existence and character of their systems of records. Accordingly, the Veterans Administration published a notice of proposed adoption of its inventory of personal records on page 37718 of the FEDERAL REGISTER of September 7, 1976, reflecting all changes to its systems of records since they were first published one year ago. No written comments have been received. The proposed description is adopted without change.

Effective date: This description of the Veterans Administration's systems of records is effective September 27, 1975, the effective date of the controlling sec-

tion of the Privacy Act with the following exceptions: The TARGET system became effective April 21, 1976 and the "Voluntary Service Records—VA" become effective October 27, 1976.

Approved: October 27, 1976.

R. L. ROUDEBUSH,
Administrator.

[FR Doc.76-32035 Filed 11-1-76; 8:45 am]

DEPARTMENT OF LABOR

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

EMPLOYEE BENEFIT PLANS

[Prohibited Transaction Exemption 76-7]

Exemption From Prohibitions Respecting a Transaction Involving Stryco Manufacturing Company Pension Trust, et al.

Notice is hereby given of the granting of an exemption under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 (the Act) and section 4975(c) (2) of the Internal Revenue Code of 1954 (the Code), relating to certain transactions involving an extension of credit by the Stryco Manufacturing Company Pension Trust (the Plan) to Stryco Manufacturing Company (Stryco).

Background. On May 18, 1976, notice was published in the FEDERAL REGISTER (41 FR 20455) (corrected at 41 FR 20940, May 21, 1976) of the pendency of an exemption for certain transactions described in an application submitted by Stryco, 860 Hamilton Corporation (860 Hamilton) Ernest N.C. Moore (Moore), Christian C.E. Hoebeich (Hoebeich), Dean E. Plankenhorn (Plankenhorn) and Russell C. Arquette (Arquette) collectively referred to as "Applicants". The notice set forth a summary of the facts and representations contained in the application and referred interested persons to the application for a complete statement of the facts and representations. The notice also invited interested persons to submit comments on the requested exemption to the Department of Labor (the Department). In addition, the notice stated that any interested person might submit a written request that a hearing be held relating to the exemption.

Comments on the pending exemption and a request for a hearing were received by the Department. A hearing with respect to the pending exemption was held by the Department on July 12, 1976. The record of that hearing has been accepted by the Internal Revenue Service (the Service) pursuant to § 4975 (c) (2) of the Code.

Written submissions by an interested person and by the Applicants and testimony at the hearing pointed out that under the terms of the May 18, 1976 Notice of Pendency of Exemption, 860 Hamilton could continue making payments to Arquette on a loan made on October 29, 1971, by Arquette to Stryco and on a lease of a machine made on October 1, 1975, by Arquette to 860 Hamilton before the indebtedness to the Plan is liquidated. The loan, which was for a principal amount of \$30,000, bears interest at ten percent. Repayment of the loan commenced in May 1975. The initial payment was \$750, and subsequent payments of \$1,250 have been made each month. The loan will be repaid by August 1977, and, as of September 25, 1976, had an outstanding balance of \$12,389.03. The lease provides that payments of \$304.40 per month are to be made for a 36-month period commencing October 1975. The lease yields a return of 9.4 percent, prior to consideration of an interest penalty in excess of \$500 incurred by Mr. and Mrs. Arquette in acquiring funds for the purchase of the machine.

Under the terms of the exemption herein granted, those payments may be made before the indebtedness is liquidated. However, the terms of the exemption have been revised to provide that no other payments may be made by 860 Hamilton to Stryco or to Mr. or Mrs. Arquette other than those specifically permitted by the terms of the "New Transaction," repayment of the preexisting unsecured loan and payments on the preexisting lease until the indebtedness to the Plan is liquidated.

A participant in and beneficiary of the Plan objected to the exemption, both in written comments and at the hearing, on the grounds that the exemption application fails to demonstrate that the terms of the proposed transactions would be in the interests of the Plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the Plan.

The Department and the Service have considered the objection as well as the comments in favor of granting the exemption and based on those public comments, the representations and facts submitted in the application and the record of the hearing, have decided to grant an exemption as set forth below for the transaction described in the application.

Notice of the pendency of an exemption as published in the FEDERAL REGISTER was forwarded on May 21, 1976, by registered mail to all beneficiaries of the Plan and to the attorneys for beneficiary Joel C. Harris and the Investment Committee of the Plan.

General information. 1. The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c) (2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code including any prohibited transaction provisions to

which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the plan's participants and beneficiaries and in a prudent fashion in accordance with subsection (a) (1) (B) of section 404 of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

2. The exemption contained herein does not extend to transactions prohibited under section 406(b) (3) of the Act and section 4975(c) (1) (F) of the Code; and

3. This exemption is supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory or administrative exemptions and transitional rules. Further, the fact that a transaction is the subject of an exemption is not dispositive of whether the transaction would have been a prohibited transaction in the absence of such exemption or, though it would have been a prohibited transaction, is exempt by operation of a statutory or administrative exemption or a transitional rule.

Exemption. Pursuant to section 408(a) of the Act and section 4975(c) (2) of the Code and the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722, and based upon the facts and representations contained in the application for exemption submitted by the Applicants, the public comments received, and the record of the hearing, the Department and the Service find that it is administratively feasible, in the interests of the Plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the Plan, to grant, and hereby grant, an exemption so that:

(1) Effective May 15, 1975, the restrictions of sections 406(a) and 406(b) (1) and (2) of the Act shall not apply to a transaction described in the Amended Loan Agreement, the Agreement of Purchase and Sale of Assets, Business Support Agreement and related documents as modified by the stipulation dated January 30, 1976, entered into by the Department, Stryco, 860 Hamilton, Moore, Hoebich and Arquette; and

(2) Effective February 13, 1976, the taxes imposed by section 4975(a) and (b) of the Code, by reason of sections 4975 (c) (1) (A) through (E) of the Code shall not apply to a proposed transaction described in the Amended Loan Agreement, the Agreement of Purchase and Sale of Assets, Business Support Agreement and related documents as modified by the stipulation dated January 30, 1976, entered into by the Department, Stryco, 860 Hamilton, Moore, Hoebich and Arquette.

The availability of this exemption is subject to the express conditions that 1) other than payments described in the New Transaction, no payments shall be made by 860 Hamilton to Stryco or to

Mr. or Mrs. Arquette except payments to Mr. Arquette on an unsecured loan made to Stryco on October 29, 1971, and payments on a lease of a machine to 860 Hamilton on October 1, 1975; 2) the material facts and representations contained in the application and the record of the hearing are true and complete; and 3) the application and record accurately describe all material terms of the transaction when consummated pursuant to the exemption.

Signed at Washington, D.C., this 26th day of October, 1976.

WILLIAM J. CHADWICK,
Administrator of Pension and
Welfare Benefit Program, U.S.
Department of Labor.

DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

[FR Doc.76-31949 Filed 11-1-76;8:45 am]

Office of the Secretary

NATIONAL ADVISORY COMMITTEE ON OCCUPATIONAL SAFETY AND HEALTH

Meeting

Notice is hereby given that the National Advisory Committee on Occupational Safety and Health (NACOSH) will meet on November 18 and 19, 1976, in Conference Room B, Departmental Auditorium, between 12th and 14th Streets on Constitution Avenue, NW, Washington, D.C.

The National Advisory Committee was established under section 7(a) of the Occupational Safety and Health Act of 1970 to advise the Secretary of Labor and the Secretary of Health, Education and Welfare on matters relating to the administration of the Act.

The meeting will begin at 9 a.m. The public is invited to attend. Agenda items will include an update of OSHA and NIOSH activities, a presentation on the investigation of discrimination complaints (section 11(c) of the Act), discussion of the definition of "repeat" violations, discussion of the Presidential Task Force's recommendations on an approach to revising safety standards, and reports from the subgroups.

For additional information contact:

J. Goodell, Chief, Committee Management Office, Occupational Safety and Health Administration, Room N-3835, Third Street and Constitution Avenue, NW, Washington, D.C. 20210, Phone: (202) 523-8024.

Any written data or views concerning these agenda items or suggestions for future agenda items which are received by the Committee Management Office before the meeting, preferably with 20 copies, will be presented to the Committee and included in the official record of the meeting.

Anyone wishing to make an oral presentation should notify the Committee Management Office before the meeting. The request should state the amount of time desired, the capacity in which the person will appear, and a brief outline of the content of the presentation. Oral presentations will be scheduled at the

discretion of the Chairman, depending on the extent to which time permits.

Official records of the meeting will be available for public inspection at the above address.

Signed at Washington, D.C., this 27th day of October 1976.

J. GOODELL,
Executive Secretary.

[FR Doc. 76-32029 Filed 11-1-76; 8:45 am]

DEPARTMENT OF LABOR

Employment and Training Administration

EMERGENCY UNEMPLOYMENT COMPENSATION

Ending of Federal Supplemental Benefit Period in Alabama; Correction

In the FEDERAL REGISTER of October 29, 1976, at 41 FR 47612, there was published a notice of ending of the Federal Supplemental Benefit Period in Alabama. Some dates appearing in the document are in error.

Wherever the date "October 9, 1976," appears, it should read instead "October 30, 1976."

Wherever the date "September 18, 1976," appears, it should read instead "October 9, 1976."

The notice is otherwise unchanged.

Signed at Washington, D.C., on October 29, 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for
Employment and Training.

[FR Doc. 76-32141 Filed 11-1-76; 8:45 am]

INTERSTATE COMMERCE COMMISSION

[Notice No. 181]

ASSIGNMENT OF HEARINGS

OCTOBER 28, 1976.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC-C-8995, Dugan Truck Line, Inc.—Investigation and Revocation of Certificates and Certificates of Registration and MC 120657 (Sub-No. 6), Dugan Truck Line, Inc., now assigned November 16, 1976 at Wichita, Kansas, has been postponed to December 21, 1976 (4 days) at Wichita, Kansas; in a hearing room to be later designated.

MC 141759 (Sub 3), Ohio Pacific Express, Inc. is now being transferred to Modified Procedure.

MC 141932 Sub 1, Polar Transport, Inc., now being assigned for Continued hearing on January 11, 1977, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC-F-12713, Campbell Sixty-Six Express, Inc.—Purchase (Portion)—Transamerican Freight Lines, Inc. and MC 75320 (Sub-No. 186) now being assigned for continued hearing on November 15, 1976, (8 days), at St. Louis, Mo., in Court Room 3, 5th Floor, 1114 Market St.

MC 9859 (Sub 3), Kane Transfer Company now assigned November 9, 1976 at Salisbury, Maryland is now being postponed until December 14, 1976 (3 days), at Salisbury, Maryland in a hearing room to be later designated.

MC-C-9025, Kane Transfer Company v. Jacob Transfer, Inc. now being assigned November 30, 1976 at the Office of the Interstate Commerce Commission in Washington, D.C.

MC-C-9033, Browning Freight Lines, Inc., et al. v. Northwest Transport Service, Inc., et al., now assigned November 9, 1976 at Salt Lake City, Utah is postponed indefinitely.

MC 116763 (Sub-No. 339), Carl Subler Trucking, Inc., now assigned November 10, 1976, at Jacksonville, Fla. is canceled and application dismissed.

MC-C-9300, Pre-Fab Transit Co. v. Chem-Haulers, Inc., now being assigned January 25, 1977, at the Office of the Interstate Commerce Commission, Washington, D.C.

MC-C-9132, Jack B. Farrar, and Mildred F. Murdock, a partnership, doing business as Farrar Transfer and Storage Warehouse—Investigation and Revocation of Certificate, now being assigned January 11, 1977, at the Office of the Interstate Commerce Commission, Washington, D.C.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 76-32092 Filed 11-1-76; 8:45 am]

[Notice No. 58]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 2, 1976.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under section 212a(b) in connection with transfer application under section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76797. By application filed October 26, 1976, Dean McCary, d.b.a. FLYING "S" FEED EXPRESS, 1120 Hull Street, Clovis, New Mexico 88101, seeks temporary authority to lease the operating rights of Bernie Lynn Snipes, d.b.a. FLYING "S" FEED EXPRESS, Route 4, Box 84, Clovis, New Mexico 88101, under section 210a(b). The transfer to Dean McCary, d.b.a. FLYING "S" FEED EXPRESS, of the operating rights of Bernie Lynn Snipes, d.b.a. FLYING "S" FEED EXPRESS, is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 76-32093 Filed 11-1-76; 8:45 am]

[Notice No. 59]

MOTOR CARRIER TRANSFER PROCEEDINGS

NOVEMBER 2, 1976.

Application filed for temporary authority under Section 210a(b) in con-

nection with transfer application under section 212a(b) in connection with transfer application under section 212a(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC-76799. By application filed October 26, 1976, Robert Patrick McCarthy, P.O. Box 1319, Tulare, CA. 93274, seeks temporary authority to lease the operating rights of A & R LUMBER SALES, INC., P.O. Box 2803, Eugene, Oreg., 97402, under section 210a(b). The transfer to Robert Patrick McCarthy, of the operating rights of A & R LUMBER SALES, INC., is presently pending.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc. 76-32094 Filed 11-1-76; 8:45 am]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

OCTOBER 27, 1976.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 3468 (Sub-No. 168TA) filed October 14, 1976. Applicant: F. J. BOU-TELL DRIVEAWAY CO., INC., 705 S. Dort Highway, P.O. Box 308, Flint, Mich. 48502. Applicant's representative: Harry C. Ames, Jr., Suite 805, 666 Eleventh St., N.W., Washington, D.C. 20001. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Motor vehicles, from

Pontiac, Mich., to points in North Carolina, South Carolina, Virginia and Georgia (except the counties of Bartow, Carroll, Catoosa, Chattahoochee, Cherokee, Clayton, Cobb, Coweta, Dade, Dawson, DeKalb, Douglas, Fannin, Fayette, Floyd, Forsyth, Fulton, Gilmer, Gordon, Gwinnett, Hall, Haralson, Heard, Henry, Lumpkin, Murray, Paulding, Pickens, Polk, Rockdale, Towns, Union, Walker, White and Whitfield), Ga., for 180 days. Supporting shipper: GM Logistics Operations, E. R. Wiseman, Director, Transportation Economics, 30007 Van Dyke Ave., Warren, Mich. 48090. Send protests to: James A. Augustyn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

No. MC 26396 (Sub-No. 136TA) filed October 18, 1976. Applicant: POPELKA TRUCKING CO., doing business as THE WAGGONERS, P.O. Box 990, Livingston, Mont. 59047. Applicant's representative: David Waggoner (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: (1) Bentonite and drilling mud and drilling mud additives and (2) Gypsum board and accessories for installation thereof, from Big Horn and Park Counties, Wyo., to ports of entry in Montana, Idaho, North Dakota, and Washington on the International Boundary line between Canada and the United States, destined to all points in the Provinces of Alberta, Saskatchewan and British Columbia, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 5 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Ave., North, Billings, Mont. 59101.

No. MC 43038 (Sub-No. 461TA) filed October 14, 1976. Applicant: COMMERCIAL CARRIERS, INC., 10701 Middlebelt Road, Romulus, Mich. 48174. Applicant's representative: Paul H. Jones, 29725 Shackett Ave., Madison Heights, Mich. 48071. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: New motor vehicles (except trailers designed to be drawn by passenger automobiles), in truckaway service, between Detroit, Mich., and points in North Carolina; South Carolina; Virginia and West Virginia. Restriction: The service authorized herein is restricted to the transportation of traffic manufactured, assembled or distributed by General Motors Corporation, for 180 days. Supporting shipper: General Motors Corporation, E. R. Wiseman, Director, Transportation Economics, 30007 Van Dyke Ave., Warren, Mich. 48090. Send protests to: James A. Augustyn, District Supervisor, Inter-

state Commerce Commission, Bureau of Operations, 1110 Broderick Tower, 10 Witherell Ave., Detroit, Mich. 48226.

No. MC 43685 (Sub-No. 18TA) filed October 18, 1976. Applicant: MERGER TRUCKING CO., INC., N. 1414 Fancher Road, P.O. Box 11585, Spokane, Wash. 99211. Applicant's representative: George Hart, 1100 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Crushed scrap automobiles and scrap metal, from points in Montana, on the one hand to points in Washington and Oregon on the other, for 180 days. Supporting shippers: McCracken Metals, Inc., 631 E. Aluminum St., Butte, Mont. J. B. Junk & Salvage, 520 18th St., N., Lewiston, Idaho 83501. Auto Disposal Service, Inc., 8820 Goddard Place, Boise, Idaho 83704. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 47583 (Sub-No. 34TA) filed October 18, 1976. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kans. 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Non frozen food stuffs, in containers (except meats, meat products, meat by-products, dairy products and articles distributed by meat packinghouses), from the plantsite of Beaver Valley Canning Co., Grimes, Iowa, Reinbeck Canning Co., Reinbeck, Iowa and Vista Products Co., Storm Lake, Iowa, to points in Arkansas, Kansas, Missouri, New Mexico, Oklahoma and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Beaver Valley Canning Company, 512 N. Main, Grimes, Iowa 50111. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 53965 (Sub-No. 120TA) filed October 19, 1976. Applicant: GRAVES TRUCK LINE, INC., 2130 S. Ohio, P.O. Box 1387, Salina, Kans. 67401. Applicant's representative: Larry E. Gregg, 641 Harrison St., Topeka, Kans. 66603. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Meats, meat products, meat by-products and articles distributed by meat packinghouses, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite of United Packing Co., of Denver, Colo., to Covington, Ky., and Hazelwood, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United

Packing Company, 500 Clarkson, Denver, Colo. 80216. Send protests to: Thomas P. O'Hara, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 234 Federal Bldg., Topeka, Kans. 66603.

No. MC 107496 (Sub-No. 1049TA) filed October 18, 1976. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Caustic soda, in bulk, from the Cargill, Inc., facilities, at or near Buffalo, Iowa, to points in Illinois, Missouri, Nebraska, Wisconsin, Minnesota, North Dakota, South Dakota and Iowa (except East St. Louis, Ill., and St. Louis, Mo., and points within that commercial zone), for 180 days. Supporting shippers: Vulcan Materials Company, P.O. Box 7689, Birmingham, Ala. 35223. Thompson-Hayward Chemical Company, 5200 Speaker, Kansas City, Kans. 66106. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 1050TA) filed October 18, 1976. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Liquid feed supplements (except molasses), in bulk, from Memphis, Tenn., to points in Arkansas and Mississippi, for 180 days. Supporting shipper: Cargill, Incorporated, Cargill Bldg., Minneapolis, Minn. 55402. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 107496 (Sub-No. 105TA) filed October 18, 1976. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: Cement block, on pellets, from St. Croix Falls, Wis., to St. Louis Park, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Midwest Brick & Supply, Oxford Road, St. Louis Park, Minn. 55416. Send protests to: Herbert W. Allen, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 518 Federal Bldg., Des Moines, Iowa 50309.

No. MC 126899 (Sub-No. 108TA) filed October 19, 1976. Applicant: USHER TRANSPORT, INC., 3925 Old Benton Road, P.O. Box 3051, Paducah, Ky. 42001. Applicant's representative: William P. Whitney, Jr., 703 McClure Bldg., Frankfort, Ky. 40601. Authority sought to operate as a common carrier, by motor ve-

hicle, over irregular routes, transporting: *Malt beverages, in containers and related advertising material, and empty malt beverage containers* on return, from the plantsite of the Falls City Brewing Company, at Louisville, Ky., to Richmond, Petersburg, Fredericksburg, Alexandria, Charlottesville, Lynchburg, Salem, Danville and Norfolk, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Falls City Brewing Company, 3050 W. Broadway, P.O. Box 1091, Louisville, Ky. 40201. Send protests to: Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 100 N. Main St., Suite 2006, Memphis, Tenn. 38103.

No. MC 128375 (Sub-No. 147TA), filed October 18, 1976. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, Nebr. 68501. Applicant's representative: Duane W. Acklie (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from St. Francisville, La., and its commercial zone, to points in Iowa, Kansas, Nebraska and Missouri, under a continuing contract with Western Paper Company, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. R. Hearshman, President, Western Paper Company, Suite 450 General Square Center, 9800 Metcalf, Overland Park, Kans. 66204. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Bldg., 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 128896 (Sub-No. 3TA), filed October 19, 1976. Applicant: ANDREWS TRUCKING LIMITED, R.R. No. 4 Creek Road, St. Catharines, Ontario, Canada L2R 6R1. Applicant's representative: R. G. Gawley, P.O. Box 184, Buffalo, N.Y. 14221. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Boat molds*, employed in the manufacture of boats; and *parts and equipment*, ancillary to boats, between the ports of entry on the International Boundary line between the United States and Canada located on the Detroit, Niagara, St. Clair and St. Lawrence Rivers, on the one hand, and, on the other, points in Rhode Island, restricted to the transportation of shipments originating in or destined to the Province of Ontario, Canada, for 90 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: C & C Yachts, 526 Regent St., Niagara-on-the-Lake, Ontario, Canada. Send protests to: George M. Parker, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 910 Federal Bldg., 111 W. Huron St., Buffalo, N.Y. 14202.

No. MC 129032 (Sub-No. 27TA), filed October 19, 1976. Applicant: TOM INMAN TRUCKING, INC., 6015 S. 49th W. Ave., P.O. Box 9667, Tulsa, Okla. 74107. Applicant's representative: John

Paul Fischer, 256 Montgomery St., San Francisco, Calif. 94104. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Packaged petroleum, lubricating oil and greases*, from Maryland Heights, Mo., to points in Arkansas, Nebraska, Oklahoma, Texas, Missouri, Kansas, Louisiana, Illinois, Colorado, Mississippi, and New Mexico, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Pennzoil Company, 1630 Olympia Blvd., Los Angeles, Calif. 90015. Send protests to: Joe Green, District Supervisor, Room 240 Old Post Office Bldg., 215 N.W. Third St., Oklahoma City, Okla. 73102.

No. MC 138741 (Sub-No. 27TA), filed October 13, 1976. Applicant: E. K. MOTOR SERVICE, INC., 2005 N. Broadway, Joliet, Ill. 60435. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Bldg., 101 W. 11th, Kansas City, Mo. 64105. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Building materials* (except commodities in bulk), from the plantsite and facilities of The Celotex Corporation, at or near Wilmington, Ill., to points in Iowa and Missouri, restricted to traffic originating at The Celotex Corporation, at or near Wilmington, Ill., for 180 days. Supporting shipper: The Celotex Corporation, David H. Wetzel, Traffic Manager, Operations, P.O. Box 22602, Tampa, Fla. 33622. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604.

No. MC 140642 (Sub-No. 1TA), filed October 18, 1976. Applicant: DON RAY DRIVE-A-WAY COMPANY, INC., 304 N. 13th St., Decatur, Ind. 46733. Applicant's representative: Edwin J. Simcox, 601 Chamber of Commerce Bldg., Indianapolis, Ind. 46204. Authority sought to operate as a common carrier, by motor vehicle, over irregular routes, transporting: *Motor homes*, in drive-a-way or tow-a-way service, between Decatur, Adams County, Ind., and Quincy, Branch County, Mich., on the one hand, and on the other, points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, West Virginia, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately 32 statements of support attached to the application, which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: J. H. Gray, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 345 W. Wayne St., Room 204, Fort Wayne, Ind. 46802.

No. MC 140849 (Sub-No. 4TA), filed October 18, 1976. Applicant: ROBERTS

TRUCKING CO., INC., U.S. Highway 271 South, P.O. Drawer G, Poteau, Okla. 74953. Applicant's representative: Prensley Shelley (same address as applicant). Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Fabrics, piece goods and materials and supplies* used in the manufacture of clothing (except commodities in bulk, in tank vehicles), from points in Virginia, to Idabel, Pauls Valley, and Frederick, Okla., under a continuing contract with Kellwood Company. Applicant intends to tack its existing authority with MC 140849 Sub-2, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kellwood Co., P.O. Box 656, Pauls Valley, Okla. 73075. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Bldg., 700 W. Capitol, Little Rock, Ark. 72201.

No. MC 142381 TA (correction), filed August 26, 1976, published in the FEDERAL REGISTER issue of September 9, 1976, and republished as corrected this issue. Applicant: WAYNE E. BELL, doing business as WAYNE BELL, Box 34, Colusa, Ill. 62329. Applicant's representative: Edward G. Pree, 904-5 Myers Bldg., Springfield, Ill. 62701. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (a) *Soybean meal*, in bulk, in open top vehicles with hopper bottoms; from Cedar Rapids, Wash., and Des Moines, Iowa, to the facilities of Cargill, Inc., Nutrena Feed Division, at or near Carthage, Ill.; and (b) *Corn Gluten feed*, in bulk, in open top vehicles with hopper bottoms; from Keokuk, Iowa, to the facilities of Cargill, Inc., Nutrena Feed Division, at or near Carthage, Ill., under a continuing contract with Cargill, Inc., Nutrena Feed Division, for 180 days. Supporting shipper: Cargill, Inc., Nutrena Feed Division, Fred K. Ceorner, General Traffic Manager, Cargill Bldg., Minneapolis, Minn. 55402. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Bldg., 219 S. Dearborn St., Room 1386, Chicago, Ill. 60604. The purpose of this republication is to amend the requested authority in this proceeding.

No. MC 142554 (Sub-No. 1TA), filed October 18, 1976. Applicant: CUSTOM CARRIERS, INC., 231 and White Road, S.E., P.O. Box 405, Maple Valley, Wash. 98038. Applicant's representative: Henry C. Winters, 1100 IBM Bldg., Seattle, Wash. 98101. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: *Gardening materials and supplies*; (1) from Kent, Wash., to Boise, Idaho; Portland, Ore.; and Salt Lake City, Utah; and (2) from Chicago, Ill.; and points in Humboldt, Los Angeles, Mendocino, Orange, Riverside and San Diego Counties, Calif., to Kent, Spokane and Yakima, Wash., Boise, Idaho, Portland, Ore., and Salt Lake City, Utah, restricted to a transportation service to be performed under a continuing contract with Cole's Plant Soils, Inc., for 180 days.

Supporting shipper: Cole's Plant Soils, Inc., 22230 Russell Road, Kent, Wash. 98031. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

No. MC 142564 TA, filed October 18, 1976. Applicant: HOLMES MOTOR-FREIGHT SERVICE CORP., 82 S. Massachusetts, Seattle, Wash. 98134. Applicant's representative: Stanley S. Holmes Jr., (same address as applicant). Authority sought to operate as a common carrier, by motor vehicle, over regular routes, transporting: *Building brick*, pressed and adhesive, between the plant-site of VMC Corporation, located in Woodinville, Wash., and commercial zone of Seattle, Wash., on shipments having prior or subsequent interstate movement, for 180 days. Supporting shipper: VMC Corporation, Woodinville, Wash. 98072. Send protests to: L. D. Boone, Transportation Specialist, Bureau of Operations, Interstate Commerce Commission, 858 Federal Bldg., 915 Second Ave., Seattle, Wash. 98174.

WATER CARRIER AUTHORITY

No. W-976 (Sub-No. 1TA). By order entered October 22, 1976, the Motor Carrier Board granted Lykes Bros. Steamship, Co., Inc., New Orleans, La., 30 days temporary authority to engage in the business of transportation by water vessel, in interstate commerce, in the transportation specially built liquid carrying lash barges each measuring approximately 61 x 32 x 12 feet length/width/height, each weighing approximately 160 short tons by Lykes American Flag Liner vessels with self sustaining heavy lift gear, from New Orleans, La., to San Francisco Bay area, Calif. via the Panama Canal.

Any interested person may file a petition for reconsideration on or before November 22, 1976. Within 20 days after the filing of such petition with the Com-

mission, any interested person may file and serve a reply thereto.

By the Commission.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-32095 Filed 11-1-76;8:45 am]

FINANCE; EXTENSIONS OF TIME

Notice of General Policy

The Commission recognizes that today's society requires a highly responsive transportation industry, and that there is little tolerance for administrative delay in transport regulation. It is therefore seeking all possible means for minimizing delays in ICC proceedings.

Modified procedure was established to provide an expeditious, economical method by which the Commission could make timely decisions in the face of a growing workload. The caseload continues to grow in numbers and complexity, while the need for timely decisions is more urgent than ever.

While all recognize the need for expedition, some parties in the throes of litigation tend to use time-extension requests as delaying tactics, and some practitioners seek such extensions merely for their own personal convenience or for that of their clients. Such unnecessary delays will no longer be permitted. Delays through extensions of time, or otherwise, protract the administrative process and place extra burdens on the parties and the Commission and its staff.

All requests for time extensions will henceforth be denied unless some pressing need exists in terms of the public interest, justice, or equity. The personal convenience of a practitioner, witness, or client will normally not suffice as a valid basis for delay, extension, or postponement.

A request for an extension of time will not be entertained unless (1) a detailed justification is given, and (2) the failure to grant the request would result in the impairment of justice or equity, or have

seriously adverse effects in terms of the public interest.

To facilitate implementation of the Commission's policy against unnecessary delay, the following list, though not all-encompassing, is provided for the guidance of practitioners and litigants:

1. No extension of time will be given unless justified by a substantial cause which is fully explained, as indicated above.

2. Absent a showing of unusual circumstances, only one extension of time in a given phase of modified procedure is contemplated.

3. An extension of time for filing verified statements under modified procedure, exceptions, or petitions for reconsideration, will not exceed 15 days; and for rebuttal statements under modified procedure, and replies to exceptions or petitions, an extension will not exceed 10 days.

Every effort has been, and will continue to be, made promptly to notify the requesting party of the disposition of the extension request, so that party in turn may notify the other parties to a proceeding. The Commission is aware of, and does not condone, the frequent unnecessary telephone calls seeking advance notice of the action on extension requests. These calls merely serve to slow down the orderly handling of a request and of the Commission's workload.

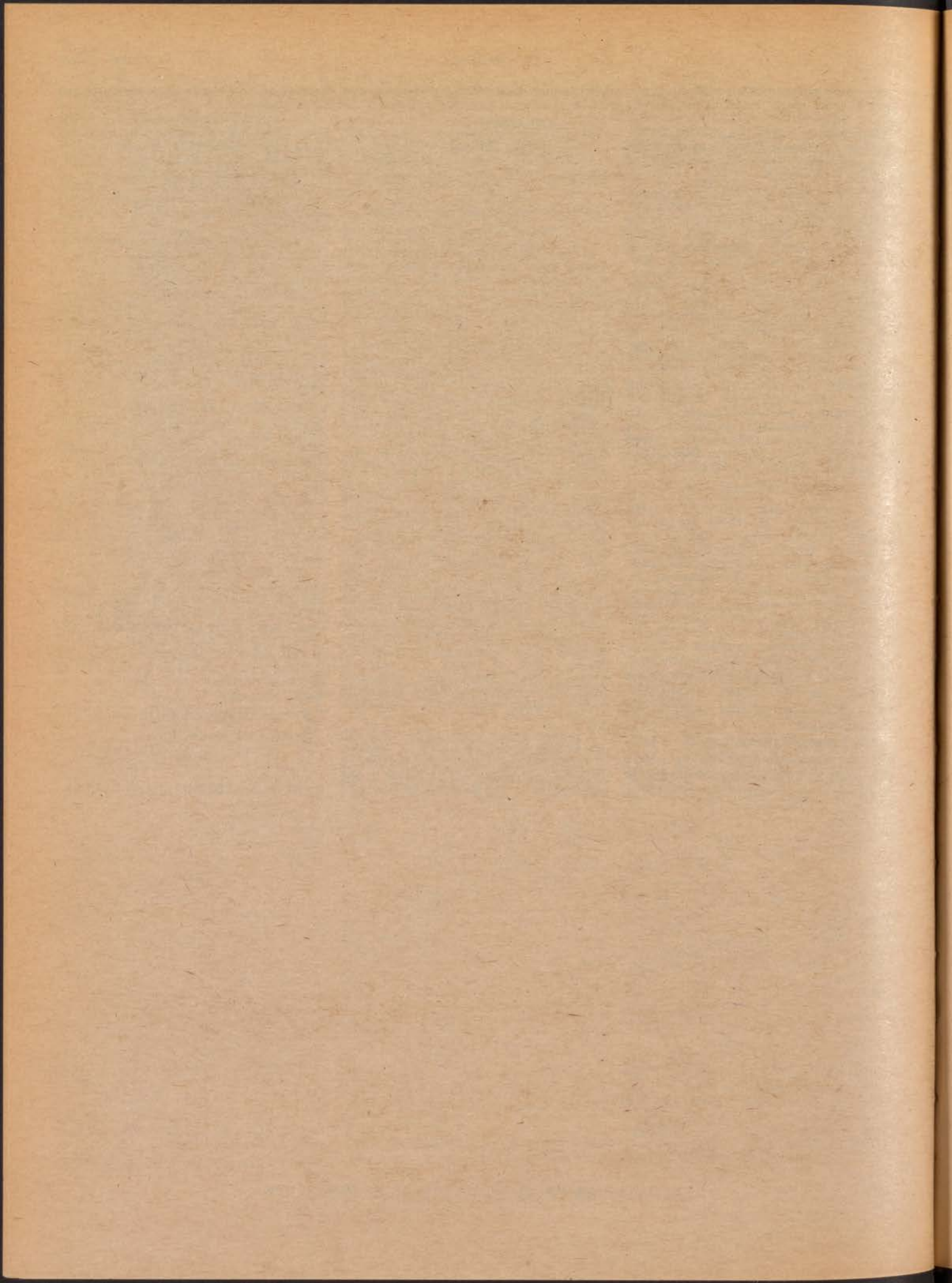
The Commission urges all members of the Commission bar to assist in achieving the objectives of this notice by carefully planning their own schedules, coordinating among the parties, and counseling the public on the extremely urgent need to make the administrative process efficient to the ends of achieving timely, effective decisions redounding to the public's benefit.

By the Commission, Division 3.

Dated: October 27, 1976.

ROBERT L. OSWALD,
Secretary.

[FR Doc.76-32096 Filed 11-1-76;8:45 am]



federal register

TUESDAY, NOVEMBER 2, 1976



PART II:

DEPARTMENT OF
HEALTH,
EDUCATION, AND
WELFARE

Public Health Service



GRANTS FOR
COMMUNITY
MENTAL HEALTH
CENTERS

Proposed Implementation

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Public Health Service

[42 CFR Part 54]

GRANTS FOR COMMUNITY MENTAL HEALTH CENTERS

Proposed Implementation

Notice is hereby given that the Assistant Secretary for Health, with the approval of the Secretary of Health, Education, and Welfare, proposes to further revise Part 54 of Title 42, Code of Federal Regulations, entitled "Grants for Community Mental Health Centers," the basic outline of which was prescribed on Wednesday, June 30, 1976, in the "Interim Rule" (FR Doc. 76-18783) in the FEDERAL REGISTER on that date (41 FR 26906), together with certain general provisions (in Subpart A).

The purpose of this proposed rulemaking is to continue the process of implementing the amendments to the Community Mental Health Centers Act made by the Community Mental Health Centers Amendments of 1975 (Title III of Pub. L. 94-63) through promulgation of—

(a) Proposed § 54.106 of Subpart A—General provisions regarding requirements for community mental health centers under section 201 of the Act, and for specified information and costs of evaluation under section 206, including—

- (1) Requirements under section 201(b)(1) of the Act relating to prescribed services;
- (2) Staff requirements;
- (3) Requirements under section 201(c) for a governing body or advisory committee;
- (4) Requirements under section 201(d) for quality assurance programs, integrated medical records, and a professional advisory board; and
- (5) Budget, statistical, and other information, and costs of evaluation, under section 206 of the Act;

(b) Proposed Subpart B—Specific provisions for grants and applications for grants under section 202 of the Act to plan community mental health center programs;

(c) Proposed Subpart C—Specific provisions for grants and applications for grants under section 203 of the Act to assist community mental health centers (and certain other entities) in meeting part of the costs of operation (other than costs related to construction) or, in specific instances, costs of staffing, for a period not exceeding 8 years from establishment;

(d) Proposed Subpart D—Specific provisions for grants and applications for grants under section 204 of the Act to assist community mental health centers in meeting the costs of providing consultation and education services;

(e) Proposed Subpart E—Specific provisions for grants and applications for grants under section 205 of the Act (relating to conversion) to assist community mental health centers (and certain other entities), with approved applications under section 203 and 211 of the Act, in meeting the costs of providing services newly required (pursuant to section 201(b)(1) of the Act) and not provided by them prior to July 29, 1975 and which they cannot provide without such "conversion" assistance; and

(f) Proposed Subpart F—Specific provisions for grants and applications for "financial distress" grants under section 211 of the Act to assist community mental health centers (and certain other entities) to whom assistance was provided under section 203 of the Act, or section 220 of the Act as in effect prior to July 29, 1975, if the center (or other entity) is no longer eligible for grants under section 203 or 220, and if its services would suffer significantly without such assistance or if it could not otherwise provide the services required under the Act.

The proposed provisions complement the rules established by the "Interim Rule" of June 30 and they should be considered in conjunction with the "Interim Rule" and its preamble. This Notice of proposed Rulemaking expressly solicits comments on the provisions set forth below; however, because of the relationship between these proposed provisions and those general provisions published on June 30, the Department will also consider comments that are concerned with this relationship.

As noted in the preamble to the "Interim Rule," the new statute (in contrast to the prior law) prescribes requirements for the administration of the new programs in great detail.

Therefore, it remains essential for those wishing to participate in the new program to become familiar with the Act itself as well as the "Interim Rule" and these proposed regulations. Because the Act, in most instances, deals adequately and fully with authorizations or requirements, the Act is only repeated or paraphrased in either the "Interim Rule" or these proposed regulations.

The new regulations policies of the Department issued July 25, 1976 (see FR Doc. 76-24042 appearing at 41 FR 43811 in the issue of Monday, August 17, 1976) require that this notice of proposed rulemaking (NPRM) have an implementation plan prepared prior to issuance. In compliance with these requirements, an implementation plan was forwarded to the Secretary and he has authorized the issuance of this NPRM without the use of a Notice of Intent (NOI) because—

- (a) There is an urgent need for these regulations, and
- (b) Over an extended period of time there has been significant communication between the Department and organizations and individuals in the development of this NPRM satisfying the *spirit* and *intent* of the NOI. This communication occurred mostly, but not exclusively, through an Implementation Work Group, chaired by the Director, Division of Mental Health Service Programs, National Institute of Mental Health, Alcohol, Drug Abuse, and Mental Health Administration, an agency of the Public Health Service. Its members included representatives from the—

American Hospital Association,
National Association for Mental Health,
National Council of Community Mental Health Centers, and
National Association of State Mental Health Program Directors.

Moreover, the substance of these regulations was reviewed by a committee of the National Advisory Mental Health Council. Of course, this identification of some of those from whom advice was received does not imply their endorsement of the specific provisions of the NPRM but merely establishes that their advice was given full consideration. The NPRM represents our best effort to reduce their recommendations to appropriate regulatory language, reconciling varying perspectives with programmatic principles and Departmental policies.

There are several areas in this NPRM that warrant specific discussion—

(a) *Governing bodies.* Section 54.107(c) would require applicants for grants under the Act (other than planning grants and grants for Financial Distress) to describe its governing body (or, in certain cases, advisory committee) which is required by section 201(c) of the Act. The Act requires that at least half the members must be non-providers; it also defines "provider." Under normal circumstances the members must reside in the catchment area. The members, as a group, must represent the residents of the area.

(b) *Requirements for Center Director.* Section 54.302(b)(1) would require applicants for operations assistance under section 203 of the Act to provide for a full-time professional staff member to serve "primarily" as director of the community mental health center, and that this individual be qualified by training and experience to do so.

It has been determined that each community mental health center needs a person whose "primary" duties are to provide direction, leadership, and coordination. This "primary" requirement would preclude the center director from performing other duties which themselves require, either by regulation or by their nature, "primary" attention. On the other hand, there is no intent to preclude such an individual from engaging in any other activities, such as the provision of care to those served by the center, so long as the primary function is that of director.

Staff of a community mental health center should generally be qualified by training or experience to perform their functions (see also proposed § 54.107(b)). However, the center directors should have a background that combines practical experience and formal professional training. In fact, consideration was given to establishing specific regulatory standards in terms of training and experience, but it was concluded that it would be preferable to elaborate on such standards through guidelines. Reactions are specifically invited regarding this choice, and suggestions as to standards are invited for potential use in guidelines or, if appropriate, regulations. Such regulations would be promulgated in accordance with Departmental procedures (see 41 FR 34811).

(c) *Requirements for Designation of Other Staff.* Section 54.302(b)(2) would require applicants for operations (or

staffing) assistance under section 203 of the Act to provide additional staff members employed on a full-time basis "primarily" to plan and provide, or arrange for the provision of—

- (1) Services for children,
- (2) Services for the elderly,
- (3) Consultation and education services,
- (4) Alcoholism and alcohol abuse services, and
- (5) Drug abuse services.

While the same "primary" condition is proposed (as discussed above relating to center director), the Department would consider requests for exceptions to the full-time requirement and permit them for good cause.

(d) *Relationship to and Technical Change in Rulemaking of June 30, 1976.* While this NPRM complements the "Interim Rule" published, June 30, 1976 (discussed above), the Department wishes to alert all parties to one of the technical changes that will be forthcoming when those rules are republished. This change is not substantial; rather, by adding the words "each of" to § 54.106(d)(3) of the rules published June 30, its relationship to sections of these proposed regulations will be made more specific. This change will facilitate the comparison of need for specific services and the staff and other resources an applicant proposes to dedicate to each one (see § 54.302(b) and (c) as proposed). As so modified, the section would read—

Each application for a grant under the Act shall contain or be accompanied by—

* * * (3) a description of the need of the population of the area for each of the services to be provided under [the applicant's proposed] program as indicated by the entity's assessment of that need * * * (emphasis added).

Interested persons are invited to submit written comments, suggestions, or objections concerning the proposed regulations to the Director, Office of Program Development and Analysis, National Institute of Mental Health, 5600 Fishers Lane, Room 17-C-17, Rockville, Maryland 20852 on or before December 17, 1976. All comments received in this period will be considered in the course of development of final regulations, and they will be available for public inspection at the foregoing address weekdays (Federal holidays excepted) between the hours of 9:00 a.m. and 4:00 p.m. Following the close of the comment period, the regulations will be revised as warranted by the public comments received in response to this Notice. It is intended to publish final regulations within seventy-five (75) days after the close of the public comment period.

The authority for the proposed rules derives from the Community Mental Health Centers Act, except Part D (42 U.S.C. 2689-2689p, 2689r-2689aa), as amended by title III of the Act of July 29, 1975 (Pub. L. 94-63; 89 Stat. 308-327, 329-333).

Accordingly, it is proposed to establish § 54.107 of Subpart A, and Subparts B, C, D, E, and F, of Part 54 of 42 Code of Federal Regulations (as such Part 54 was revised by the "Interim Rule" of June 30, 1976; 41 FR 26906 et seq.) in the manner set forth below.

It is hereby certified that the economic and inflation impacts of these proposed regulations have been carefully evaluated in accordance with Executive Order Number 11821 and that an Inflation Impact Evaluation is not required.

Dated: September 22, 1976.

JAMES F. DICKSON,
Acting Assistant
Secretary of Health.

Approved: October 21, 1976.

MARJORIE LYNCH,
Acting Secretary.

1. It is proposed to revise Part 54 of 42 CFR (as previously revised in the "Interim Rule" of June 30, 1976; 41 FR 26906 et seq.) by inserting § 54.107 of Subpart A (in the place reserved for it in that "Interim Rule"), reading as follows:

PART 54—GRANTS FOR COMMUNITY MENTAL HEALTH CENTERS

Subpart A—General Provisions

§ 54.107 Requirements for Community Mental Health Centers under section 201, and for specified information and costs of evaluation under section 206, of the Act.¹

(a) *Requirements under section 201(b)(1)—(1) Inpatient services.* The inpatient services required under section 201

¹ The definitions, descriptions, and requirements in § 54.107 are not necessarily exhaustive. For example, community mental health

(b)(1) of the Act must include, for persons requiring 24 hour care, short-term evaluation, or short-term evaluation and short-term intensive treatment, in a manner facilitating their return to the community as expeditiously as their conditions and appropriate care permit.

(2) *Outpatient services.* The outpatient services required under section 201(b)(1) of the Act must include the full range of the community mental health center's (or other entity's)² services, including individual, group, and family services, provided on a regularly scheduled outpatient basis which includes hours during evenings or weekends.

(3) *Day care and other partial hospitalization.* The day care and other partial hospitalization services required under section 201(b)(1) of the Act must include, for persons requiring more than outpatient services but less than inpatient services, day care, overnight care, and weekend care, as well as care for shorter periods.

(4) *Emergency Services.* The emergency services required under section 201(b)(1) of the Act must be available 24 hours each day and must include—

(i) Expeditious provision, for persons needing such services in times of emotional crisis or other emergency related to their mental health, alcoholism or alcohol abuse, or drug abuse³, of—

(A) Initial evaluation, and

(B) Initial treatment with respect to such emotional crisis or other emergency, or, if beyond the treatment capabilities of the community mental health center (or other entity) and its satellite centers (which treatment capabilities must include at least the services described in section 201(b)(1) of the Act and in these regulations), referral to a facility with appropriate capabilities;

(ii) Arrangements for appropriate post-emergency services by or through the community mental health center (or other entity); and

(iii) Arrangements for following-up those persons who are so referred or for whom such arrangements for post-emergency services are made.

(5) *Specialized services for children.* The program of specialized services for children required under section 201(b)(1) of the Act must include—

(i) The full range of diagnostic, treatment, liaison, and follow-up services required by the Act and these regulations, and any other service available at the community mental health center (or other entity), tailored to the needs of children, with particular attention to their needs at various stages of their development; and

(ii) Provision for making the services readily accessible to children in the light of their special problems in obtaining the services, and including appropriate provision of services at locations outside the facilities of the center (or other entity) or through other agencies.

(6) *Specialized services for the elderly.* The program of specialized services for the elderly required under section 201(b)(1) of the Act must include—

(i) The full range of diagnostic, treatment, liaison, and follow-up services required under the Act and these regulations, and any other service available at the community mental health center (or other entity), tailored to the needs of the elderly; and

(ii) Provision for making the services readily accessible to the elderly in the light of their special problems in obtaining the services, and including appropriate provision of services at locations outside the facilities of the center (or other entity) or through other agencies.

(7) *Consultation and education services.* [Reserved]

(8) *Assistance to public agencies.* The assistance to courts and other public agencies in screening and provision of treatment required under section 201(b)(1) of the Act must include provision of information to these agencies on the availability of such assistance to them, as well as provision,

centers and other entities will also have to comply with the applicable requirements of the Act, as well as any additional requirements prescribed in a grant award for a particular center or entity or classes thereof.

² Throughout this section, the term "other entity" refers to a legal entity that would be a community mental health center (as defined in section 201 of the Act) except that it is not providing all of the services required under section 201(b)(1) of the Act.

³ Note that this requirement with respect to alcoholism or alcohol abuse, or drug abuse, applies even in cases in which the Secretary has waived the requirement of a service program under section 201(b)(1)(H) of the Act with respect to the catchment area of the community mental health center (or other entity).

when requested by any such court or other public agency, of a comprehensive assessment of the need for inpatient treatment of any person being considered by such court or agency for possible referral to a State mental health facility for such treatment, including consideration of the availability and suitability of less restrictive alternative services.

(9) *Follow-up care.* The follow-up care required under section 201(b)(1) of the Act must, directly or through liaison services, provide for maintaining contact with residents of the catchment area who have been discharged from a mental health facility, and assure their access to further services (including other health services and social services) if and when needed.

(10) *Transitional half-way house services.* The program of transitional half-way house services required under section 201(b)(1) of the Act must include sheltered community living arrangements designed as an alternative to inpatient services and to facilitate gradual return to the regular community of residents of the catchment area who have received inpatient services.

(11) *Alcoholism and alcohol abuse services.* The program for prevention and treatment of alcoholism and alcohol abuse and for the rehabilitation of alcohol abusers and alcoholics required under section 201(b)(1) of the Act (unless waived by the Secretary thereunder) must include, in addition to the special services directed toward their alcohol abuse or alcoholism or the prevention thereof, the full range of diagnostic, treatment, liaison, and follow-up services required under the Act and these regulations, and any other service available at the community mental health center (or other entity), tailored to the specific needs of this group of persons.

(12) *Drug abuse services.* The program for prevention and treatment of drug addiction and drug abuse and for the rehabilitation of drug addicts, drug abusers, and other persons with drug dependency problems required under section 201(b)(1) of the Act (unless waived by the Secretary thereunder) must include, in addition to the special services directed toward their drug addiction, drug abuse, or drug dependency or the prevention thereof, the full range of diagnostic, treatment, liaison, and follow-up services required under the Act and these regulations, and any other service available at the community mental health center (or other entity), tailored to the specific needs of this group of persons.

(13) *Liaison and diagnostic services.* The services described in section 201(b)(1) of the Act must include, with respect to a community mental health center (or other entity), the provision of—

(i) Liaison services between the center (or other entity) and other agencies which regularly deal with its patients (and their families in or near the catchment area), with a view to promoting coordination with and more ready access to other needed health and social services, and

(ii) Diagnostic services which provide assessments of the nature of the condition of persons seeking services at the center (or other entity) and which include, as appropriate, physical and nutritional assessments by or under the direction of a physician.

(b) *Staff requirements.* For purposes of section 201(b) of the Act, a community mental health center (or other entity) must have staff (1) who are qualified by training or experience to provide the services described in section 201 of the Act competently, efficiently, and effectively, and (2) whose qualifications are maintained through appropriate training on an in-service or other basis.

(c) *Requirement under section 201(c) for a governing body or Advisory Committee.* An application for a grant under the Act by a community mental health center (or other entity) to which the requirements for a governing body or advisory committee under section 201(c)(1) of the Act are applicable must—

(1) Describe the functions and responsibilities of such body or committee, the number of its members and the proportion of provider (as defined in section 201(c)(2) of the Act) and other members, the durations of their membership, and the method of their selection for membership;

(2) Describe the relationships between such body or committee and the director and staff of the center (or other entity), the professional advisory board required under section 201(d)(3) of the Act, and any larger agency or organization of which the center (or other entity) is a part;

(3) Describe, in the case of such a body which is not composed of persons all of whom are residents of the center's (or other entity's) catchment area, the reasons it was not

practicable for the body to be composed of such persons and the steps the center (or other entity) plans to take in an effort to achieve such composition; and

(4) Describe how the members of such body, as a group, represent the residents of the center's (or other entity's) catchment area as required by section 201(c)(1)(A)(i) of the Act.

(d) *Requirements under section 201(d).*—(1) *Quality Assurance Programs.* The quality assurance program required to be established by a community mental health center (or other entity) under section 201(d)(1) of the Act must be described in writing in a form and in such detail as may be prescribed by the Secretary. The description must include provision for review and necessary revision of its contents at least annually; must be available for examination by the center's (or other entity's) staff, patients, and officers and governing body, and the public; and must include a description of—

(i) The responsibilities and composition of the utilization review committee or committees established under the program, which composition must be such as to assure representation of all clinical disciplines and service units involved in the delivery of mental health services;

(ii) The procedure to be followed in the utilization and peer review systems, established under the program, which procedure must provide for the completion of at least two evaluation-of-care studies each year;

(iii) The criteria and standards to be utilized for these reviews or, if not already developed, the procedure proposed for developing such criteria and standards, as well as the manner in which the center (or other entity) is applying or proposes to apply them; and

(iv) The procedure which will be followed to assure dissemination of the results of these reviews to the center's (or other entity's) staff and governing body, and other appropriate bodies and persons.

(2) *Integrated medical records system.* The integrated medical records system required under section 201(d)(2) of the Act must include an individual record for each patient receiving services. This record must include all charts, a drug use profile, and other appropriate data and must be indexed by the patient's name. The system must also include appropriate provision for maintaining the confidentiality of the individual records.

(3) *Professional Advisory Board.* The professional advisory board required to be established by a community mental health center (or other entity) under section 201(d)(3) of the Act must include representation from each professional discipline and each service unit (of the center or other entity) involved in the delivery of mental health, alcoholism or alcohol abuse, or drug abuse services.

(e) *Budget, statistical, and other information, and costs of evaluation, under section 206 of the Act.* (1) The overall plan and budget provided, and the statistical and other information developed, compiled, evaluated, and reported, as required under section 206(c)(1)(A) of the Act, must be in such form and detail, and be reported at such time or times, as the Secretary may prescribe; and that statistical and other information shall cover such matters, other than those specified in that section, as the Secretary may require.

(2) The costs of the program of continuing evaluation and of the review of the quality of services of a community mental health center for which an amount must be obligated under section 206(c)(4) of the Act may include the cost of the development or substantial modification, but not the cost of operation, maintenance, or insubstantial modification, of the information system of the center.

2. It is proposed to revise Part 54 of 42 CFR (as previously revised in the "Interim Rule" of June 30, 1976; 41 FR 26906 et seq.) by inserting Subparts B, C, D, E, and F (in the places reserved for them in that "Interim Rule"), reading as follows:

Subpart B—Grants for Planning Community Mental Health Center Programs

- Sec.
54.201 Applicability.
54.202 Eligibility.
54.203 Application content.

* This requirement, of course, does not prevent disclosure to the patient; nor does it in any way impede or impair the Secretary's authority to secure any information needed for purposes of carrying out his responsibility under the Act and regulations. See, also, 42 CFR Part 2 relating to Confidentiality of Alcohol and Drug Abuse Patient Records.

Subpart C—Grants for Initial Operation or Staffing

- 54.301 Applicability.
- 54.302 Application content.

Subpart D—Grants for Consultation and Education Services

- 54.401 Applicability.
- 54.402 Application content.

Subpart E—Conversion Grants

- 54.501 Applicability.
- 54.502 Application content.
- 54.503 Time for submitting application.

Subpart F—Financial Distress Grants

- 54.601 Applicability.
- 54.602 Eligibility.
- 54.603 Application content.
- 54.604 Use of grant.

Subpart B—Grants for Planning Community Mental Health Center Programs

§ 54.201 Applicability.

This subpart applies to grants and applications for grants under section 202 of the Act.

NOTE: As a matter of information: Section 202 of the Act authorizes grants to any public or non-profit private entity for projects to plan community mental health center programs in catchment areas.

§ 54.202 Eligibility.

An entity is not eligible for a grant under section 202 of the Act to plan a community mental health center program for a catchment area in a State if—

- (a) A grant has previously been made under section 203(a) or part C of the Act to that entity or any other entity for a project in that catchment area; or
- (b) A grant has previously been made, under part A or B (other than section 224(b)) of the Act as in effect before July 29, 1975, to it or any other entity for a project in that catchment area.

§ 54.203 Application content.

An application for a grant under section 202 of the Act will not be approved unless it contains or is accompanied by (in such manner and detail as the Secretary may provide)¹—

- (a) Information as to how the entity will meet the requirements of the second sentence of section 202(a) of the Act (relating to assessment of the need for services, designing a community mental health center program, obtaining financial and professional assistance and support for the program, and community involvement in development and operation of the program);
- (b) Assurances satisfactory to the Secretary that the entity will submit to him—

- (1) Within 120 days after the beginning of the period for which the grant is made, a report describing the entity's progress toward meeting such requirements; and
- (2) Within 90 days after the end of the period for which the grant was made a final report containing, or an application for a grant under section 203(a) or 222 of the Act containing or accompanied by—

- (i) A plan for developing a comprehensive community mental health center program that meets the services and organizational requirements of section 201 of the Act, which plan includes an identification of the problems likely to be encountered in the development of the program and the steps expected to be taken to resolve such problems;
- (ii) A description of the professional and financial resources available in or to the catchment area and steps taken to secure such resources to support the program;
- (iii) A description of the nature and extent of community involvement in carrying out the project for which the grant was made under section 202 of the Act; and
- (iv) A description of the community involvement that is planned in the development and operation of the community mental health center's program for the area; and

- (1) A professional staff member who is qualified by training and experience to be the applicant's director and is employed on a full-time basis primarily for this purpose;
- (2) In the case of each of the following services one staff member employed on a full-time basis (except as otherwise permitted by the Secretary for good cause) primarily to, and qualified by training or experience to, be responsible for planning and providing, or arranging for the provision, of—

- (c) Information which the Secretary may find necessary to enable him to determine if the catchment area with respect to which the grant is requested is an urban or rural poverty area.

Subpart C—Grants for Initial Operation or Staffing

§ 54.301 Applicability.

This subpart applies to grants and applications for grants under section 203 of the Act.

NOTE: As a matter of information: Section 203 of the Act authorizes grants—

- (a) To any public or non-profit private community mental health center; and
- (b) To any public or non-profit private entity (1) which would be a community mental health center except that it is providing only some but not all of the services described in section 201(b) (1) of the Act and (2) which has a satisfactory plan for providing the missing services within 2 years,

to meet part of their costs of operation (other than costs related to construction) for a period not exceeding 8 years after establishment. In addition, subsection (e) of section 203 of the Act authorizes continuation of grants to any entity which received a grant under section 220, 242, 243, 251, 256, 264, or 271 of the Act (as in effect before July 29, 1975) for the remaining period provided under that section, but (1) such a grant may not be made if the entity has received an operations grant under subsection (a) of the present section 203 of the Act, and (2) only 2 such continuation grants may be made to an entity unless it meets the requirements of the present section 201(b) (1) of the Act.

§ 54.302 Application content.

An application for a grant under section 203 of the Act will not be approved unless it contains or is accompanied by (in such manner and detail as the Secretary may provide)¹—

- (a) (1) A description of each of the services to be provided, and the manner in which they are or will be provided, under the program proposed by the applicant.
- (2) An explanation of how this program will help meet the need for the services set forth in the State plan pursuant to § 54.104(c).

- (3) A description of the services which will be added in the period for which the grant is requested and the following year, including a timetable for addition of any of those services which are included in section 201(b) of the Act; and
- (4) If the applicant is requesting waiver of the requirement of either or both of the service programs (for alcoholism and alcohol abuse, or drug abuse) referred to in paragraph (1)(H) of such section 201(b), sufficient information to enable the Secretary to determine whether there is a need for such program or programs or the need is being met, as well as evidence satisfactory to the Secretary that the governing body of the applicant approved that request or, in the case of an applicant to which section 201(c) (1) (B) of the Act applies, that the advisory committee (referred to in such section) of the applicant was given an opportunity to consider and make recommendations with respect to that request before it was made, along with information as to what such recommendations (if any) were;

- (b) A description of the staff of the applicant, their disciplines, numbers (including an indication of the number who will be full-time staff members and the percentage of full-time service which each of the other staff members will perform), and assignments, and the manner in which they are or will be organized to carry out the program of the applicant, together with a justification of the assignments and organization; information as to the need for and availability of the kinds and quantities of the staff proposed and the plans for their recruitment and compensation; and provision for—
- (1) A professional staff member who is qualified by training and experience to be the applicant's director and is employed on a full-time basis primarily for this purpose;
- (2) In the case of each of the following services one staff member employed on a full-time basis (except as otherwise permitted by the Secretary for good cause) primarily to, and qualified by training or experience to, be responsible for planning and providing, or arranging for the provision, of—

- (i) Services for children,

- (1) Services for children,

¹ See, also, § 54.106 which permits certain matters to be incorporated by reference in, and sets forth additional requirements for, applications for grants under the Act.

¹ See, also, § 54.106 which permits certain matters to be incorporated by reference in, and sets forth additional requirements for, applications for grants under the Act.

- (ii) Services for the elderly,
- (iii) Consultation and education services,
- (iv) Alcoholism and alcohol abuse services (unless waived pursuant to section 201(b)(1)(H) of the Act), and
- (v) Drug abuse services (unless waived pursuant to section 201(b)(1)(H) of the Act); and

(3) An identifiable administrative unit (required under section 201(d)(4) of the Act) responsible for planning and providing, or arranging for the provision of, consultation and education services, with at least one staff member employed on a full-time basis for this purpose (who may also be the staff member required under paragraph (b)(2)(iii) of this section); or information sufficient to enable the Secretary to determine that waiver of the requirement of such unit is warranted under the last sentence of section 201(d) of the Act;

(c) Information on the projected cost of operation of the applicant for the year for which the grant is sought, with an indication of the portion thereof attributable to each of the 5 services referred to in paragraph (b)(2)(i) through (v) of this section and with a justification therefor—

(1) Explaining the allocation made to each of these 5 services in light of the needs identified pursuant to § 54.106 (d)(3);

(2) Showing that not less than 60 percent of the expenditures (other than capital expenditures) is allocated to salaries and related benefits for the staff or, if less than 60 percent is so allocated, explaining the reasons for the way in which the applicant has allocated its expenditures; and

(3) Including information as to total costs and costs related to each of the services referred to in paragraph (b)(2)(i) through (v) of this section (if any) borne in whole or part by grants under the Act (including any grants under the Act as in effect before July 29, 1975) during the two years most recently completed prior to the beginning of the period for which support is sought;

(d) Such information as the Secretary may find necessary to enable him to determine if the catchment area with respect to which the grant is sought is an urban or rural poverty area;

(e) Information sufficient to determine whether there is a reasonable assurance of adequate financial support for the operation of the applicant when assistance under part A of the Act is reduced or no longer available;

(f) Information showing the accessibility of services under the program of the applicant to residents of the catchment area in need thereof, taking into account the hours of service, availability of public transportation for those who must rely on it, and other relevant considerations;

(g) (1) Except in the case of an application for the applicant's first or second grant under section 203(e) of the Act, a description of the membership of the applicant's governing body sufficient to enable the Secretary to determine its compliance with section 201(c)(1)(A) of the Act, or a description of the membership of its advisory committee sufficient to enable the Secretary to determine its compliance with section 201(c)(1)(B) of the Act, whichever is applicable;

(2) In the case of an application for the applicant's first or second grant under section 203(e), a description of actions (if any) it proposes to undertake during the period of such grant toward meeting the requirements of section 201(c)(1)(A) or (B) of the Act, whichever is applicable;

(h) A description of the procedure for developing, compiling, evaluating, and reporting statistics and other data to be followed in carrying out assurances given pursuant to section 206(c)(1)(A) of the Act;

(i) A long-range plan as required by the last 2 sentences of section 206(c)(1) of the Act (1) which covers a period of at least 5 years, beginning with the year for which the applicant's first grant under section 203 of the Act is made, (2) which includes, at least for the first 2 such years, demographic and other data supporting its estimates of increased demand during that period, and (3) which devotes particular attention to increasing the accessibility of the services provided;

(j) In the case of an applicant to which subsection (c)(3) of section 206 of the Act is applicable, a description of the actions it will undertake, during the period for which its first grant under section 203 of the Act is made, so as to meet the requirements of subsection (c)(1) and (2) of such section 206 by the end of that period;

(k) Except to the extent permitted pursuant to section 206(c)(3) of the Act, information regarding the number and proportion of persons in the catchment area of the applicant who are of limited English-speaking ability and the proce-

dures to be followed so as to make the applicant's program responsive to the needs of such persons, including descriptions of arrangements made for providing services to such persons and of how the staff member or members who are fluent in both English and the primary language or languages of such persons will be identified and will perform their functions under section 206(c)(1)(D) of the Act; except that, if the members of the area's population of limited English-speaking ability who have the same primary language constitute less than 5 percent of such population and less than 3,500 persons, the requirement of bilingual staff will be waived with respect to that portion of the population with that primary language but only if the applicant demonstrates to the satisfaction of the Secretary that adequate arrangements have been made to assure availability of services for that portion of the population;

(l) In the case of any of the services not provided by staff of the applicant (but which the applicant is required to provide under the Act), information on the arrangements made for provision thereof, including copies of contracts or descriptions of proposed contracts with the organizations, agencies, and persons providing such services and a description of the proposed disposition of income from the provision of such services;

(m) Assurances that the applicant will, to the extent of its financial ability to do so, make its services available to those unable to pay therefor, as well as documentation of its experience in this regard in the 2 years preceding the period for which the grant is requested; and

(n) A description of the procedures to be followed in the case of any medical emergencies arising during the examination or treatment of any patients of the applicant, including the transportation and other arrangements made for the use of other facilities for this purpose and the location of such facilities if the facilities of the applicant (or its satellite centers) are not adequate or readily available for this purpose.

Subpart D—Grants for Consultation and Education Services

§ 54.401 Applicability.

This subpart applies to grants and applications for grants under section 204 of the Act.

NOTE: As a matter of information: Section 204 of the Act authorizes grants for consultation and education services—

(a) To any community mental health center which has received, from appropriations for a fiscal year ending before July 1, 1975, a staffing grant under section 220 of the Act as in effect before July 29, 1975, but which, because of the expiration of the period for which such grants may be made, is not eligible for an additional staffing grant under section 203(e) of the Act (as now in effect);

(b) To any community mental health center which has received or is receiving a grant under section 203 of the Act (as now in effect) and which has been in operation—

(1) For not less than 4 years, or

(2) For not less than 2 years if the Secretary determines that the center will not be able to provide consultation and education services adequately during the third or fourth year of its operation without a grant under section 204 of the Act; and

(c) To any public or non-profit private entity—

(1) Which meets the requirements of section 201 of the Act (relating to the organization of the center and the comprehensiveness of its services) except, in the case of an entity which has not received a grant under section 204 of the Act, the provisions of subsection (b)(1)(D) of such section 201 (relating to consultation and education services);

(2) Which has not received any grant under any provision of the Act, as now or previously in effect, other than section 204 of the Act as now in effect; and

(3) Which is not within (in whole or in part) the catchment area of a community mental health center.

§ 54.402 Application content.

An application for a grant under section 204 of the Act will not be approved unless it contains or is accompanied by (in such manner and detail as the Secretary may provide)¹—

¹ The making of arrangements for the provision of services by staff other than those of the applicant does not divest the applicant of its responsibilities for those services under the Act, these regulations, or the terms and conditions of any grant thereunder.

² See, also, § 54.106 which permits certain matters to be incorporated by reference in, and sets forth additional requirements for, applications for grants under the Act.

(a) Evidence that a study was made of the needs of the catchment area for consultation and education services;

(b) Evidence showing that in conducting the study—

(1) There was appropriate consultation with individuals, entities, and groups in the catchment area which are involved with mental health services, such as health professionals, schools, courts, State or local governments, law enforcement or correctional agencies, members of the clergy, public welfare agencies, and health services delivery agencies, as well as organizations representing groups such as industry, labor, and women or minority population groups, and other appropriate community agencies and organizations; and

(2) Appropriate account was taken of the assessment of service needs developed by the applicant in the course of its program planning and evaluation and the assessment of such needs developed by the State in preparing the State plan for purposes of section 237 of the Act;

(c) An analysis of the results of the study and a plan to meet the needs revealed by the study;

(d) Provision for an identifiable administrative unit (required under section 201(d)(4) of the Act) of the applicant to be responsible for planning and providing, or arranging for the provision of, the applicant's consultation and education services, with a professional staff member employed on a full-time basis to, and qualified by training and experience to, direct and (with such assistance as may be appropriate) carry out the responsibilities of the unit;²

(e) A description of how the resources of the applicant will be used to help the various agencies, organizations, and individuals in the catchment area—

(1) To improve the handling of rape victims through appropriate mental health and other medical services and social services; and

(2) To aid in the prevention of rape; and

(f) The information, material, or assurances required by § 54.302(h), (k), and (m).

Subpart E—Conversion Grants

§ 54.501 Applicability.

This subpart applies to grants and applications for grants under section 205 of the Act.

NOTE.—As a matter of information: Section 205 of the Act authorizes up to two grants, to any public or non-profit private entity with an approved application for a grant under section 203 (initial operation or staffing) or under section 211 (financial distress) of the Act, for newly required services not provided by it before July 29, 1975, and for which it is in need of additional assistance.

§ 54.502 Application content.

An application for a grant under section 205 of the Act will not be approved unless it contains or is accompanied by (in such manner and detail as the Secretary may provide)¹—

(a) A description of the staff of the applicant, their disciplines, numbers (including an indication of the number who will be full-time staff members and the percentage of full-time service which each of the other staff numbers will perform), and assignments;

(b) Information identifying and describing the service or services for the costs of which the grant is sought and the manner in which they are or will be provided;

(c) Documentation and other evidence necessary to enable the Secretary to determine that such service or services (1) were not among the essential elements of comprehensive services prescribed by the Secretary under section 221(a)(2) of the Act as in effect before July 29, 1975, and (2) were not being provided by the applicant before July 29, 1975, or, if provided were not being provided to the same category of persons in the catchment area;

(d) For the year for which the grant is sought—

(1) The anticipated costs of operation of the applicant and the portion thereof attributable to each service with respect to which the grant is sought;

(2) The anticipated income to the applicant from fees, premiums, and third party reimbursements for the provision of services and the portion of the income attributable to each

¹ In the case of an applicant which applies for a grant under section 203 of the Act, this unit and professional staff member would, of course, serve to meet the requirements of § 54.302(b)(2)(iii) and (b)(3).

² See, also, § 54.106 which permits certain matters to be incorporated by reference in, and sets forth additional requirements for, applications for grants under the Act.

service with respect to which the grant is sought; the anticipated income to it from State, local, and other funds including funds under a grant under section 203, 204, or 211 of the Act; and the amount of income expected from each source; and

(3) An estimate of the portion of each service to be provided for persons unable to pay the full cost of the service;

(e) Documentation and other information demonstrating—

(1) That the applicant has taken appropriate steps to identify existing and anticipated sources of funds (other than a grant under section 205 of the Act) to help meet the costs of the service or services with respect to which the grant is sought, as well as the costs of other mental health services to be provided by (or through) the applicant; and

(2) (i) That it has made reasonable efforts to secure the needed funds from such sources; but (ii) that sufficient funds from these and other sources are not available to cover the costs of such service or services for that year;

(f) A description of the process by which the applicant assessed the need of its catchment area for the service or services with respect to which the grant is sought, as well as for the other services to be provided by (or through) the applicant;

(g) The applicant's plan for integrating the service or services with respect to which the grant is sought with the other services provided by (or through) the applicant so that comprehensive services will be available by (or through) the applicant within a reasonable period which is specified by the applicant, but which in no case may extend beyond the end of the first year after the end of the year for which the grant is sought; and

(h) The applicant's plans for providing, after the year for which the grant is sought, the service or services with respect to which the grant is sought and the other services to be provided by (or through) it, and its plans for developing or securing resources to help meet the costs of providing each of these services after that year.

§ 54.503 Time for submitting application.

An application by any entity for a grant under section 205 of the Act for any year will not be eligible for approval unless it is submitted at the same time as its application for a grant for that year under section 203 or 211, as the case may be, of the Act; except that, the application for the grant under section 205 of the Act will not be ineligible for approval by reason of failure to submit it at that time if the applicant shows to the satisfaction of the Secretary that there was good cause for such failure and if that application is submitted within such period after the submission of its application under section 203 or 211 as the Secretary permits.

Subpart F—Financial Distress Grants

§ 54.601 Applicability.

This subpart applies to grants and applications for grants under section 211 of the Act.

NOTE.—As a matter of information: Section 211 of the Act authorizes up to 3 financial distress grants in the case of any community mental health center (a) which received a grant or grants under section 203(a) of the Act, or section 220 of the Act as in effect before July 29, 1975, (b) which, because of the expiration of the period for which such grants may be made, no longer is eligible for a grant under such section 203(a) or 220 (or section 220 as continued in effect by section 203(e) of the Act), and (c) whose services will suffer significantly without a financial distress grant.

§ 54.602 Eligibility.

(a) An entity is not eligible for a grant under section 211 of the Act unless it shows to the satisfaction of the Secretary that—

(1) Without such a grant for the year for which it is sought—

(i) There will be a significant reduction in the types, level, or quality of the services it is or was providing at the time of filing the application for the grant or at any time during the most recent year (ending before such filing) in the period for which it received the grant or grants referred to in paragraph (a)(3) of this section; or

(ii) The entity will be unable to provide any one or more of the services described in section 201(b) of the Act and which

it is not and was not providing at the times referred to in paragraph (a) (1) (i) of this section;

(2) The needs of the catchment area for the services referred to in paragraph (a) (1) of this section cannot be met through other financial resources reasonably available to the entity;

(3) The entity—

(i) Has received one or more grants under section 203(a) of the Act and is not eligible for further grants thereunder, or

(ii) Did not receive such a grant but did receive one or more grants under section 220 of the Act as in effect before July 29, 1975, (or such section 220 as continued in effect by section 203(e) of the Act) and is no longer eligible for a grant under that section for a fiscal year beginning after June 30, 1975; and

(4) The ineligibility referred to in paragraph (a) (3) of this section is due solely to limitations in such section 203(e) and section 220, respectively, on the period for which an entity may receive grants under that section.

(b) An entity is also not eligible for a grant under section 211 of the Act unless its application for its first grant under that section is (1) filed within two years after the end of the period for which its most recent grant under subsection (a) or (e) of section 203 of the Act was made, or (2) in the case of an entity which has not received a grant under either of these subsections for any period, but which did receive a grant or grants under section 220 of the Act (as in effect before July 29, 1975) for any period beginning before July 29, 1975 (but not for any period beginning on or after July 29, 1975), filed before August 1, 1977.

§ 54.603 Application content.

An application for a grant under section 211 of the Act will not be approved unless it contains or is accompanied by (in such manner and detail as the Secretary may provide)¹—

(a) Information as to the amount of funds received and reasonably expected from each source during the year for which the grant is requested and each of the three years preceding that year;

(b) Information as to the applicant's operating expenses for the same 3-year period, which also reflects the increases, decreases, changes in categories of, and other relevant changes in, such expenses;

(c) Documentation of the efforts made by the applicant to develop or secure additional or alternative non-Federal sources of financing its costs of operation;

(d) Information as to the conditions or circumstances in the catchment area which may have contributed to the applicant's financial difficulties;

(e) Information on the results of studies and analyses conducted, at the request of the Secretary pursuant to section 212(a) (2) of the Act or otherwise, to determine the causes of the applicant's financial difficulties;

(f) Documentation of the operational and financial reforms undertaken, in progress, and planned by the applicant on the basis of the information obtained in the course of these studies and analyses or on the basis of other relevant information;

(g) Assurances satisfactory to the Secretary that the applicant will—

(1) Within one year after the end of the year for which the first grant under section 211 of the Act is made to it, meet the requirements of section 201(c) and (d) of the Act with respect to the applicant's organization; and

(2) Within two years after the end of the year for which that first grant was made, provide the services described in section 201(b) of the Act, except that, if the applicant is eligible for a grant by reason of paragraph (a) (1) (i) of this section, that two year period may, upon the request of the applicant showing good cause, be extended by such amount of time as the Secretary finds necessary to enable the applicant to provide such services;

(h) (1) Information on the plan the applicant has developed for providing such services described in section 201(b) of the Act and for meeting such requirements of section 201(c) and (d) of the Act within the period prescribed in paragraph (g) of this section.

(2) Information on the periods within which various stages of progress toward completion or accomplishment of the plan will be attained, including the stage expected to be attained at the end of the year for which the grant is requested, and

(3) Assurances satisfactory to the Secretary that the applicant will periodically review and appropriately revise the plan; and

(4) The information, material, or assurances required by § 54.302(a), (b), (f), (h), (k), (l), (m), and (n).

§ 54.604 Use of grant.

A grant under section 211 of the Act is available only to help defray the projected costs of operation or staffing (except those projected costs relating to the provision of consultation and education services) and only to the extent necessary to enable the grantee to prevent a significant reduction in the types, level, or quality of services it was providing at the time referred to in § 54.602(a) (1) (i) or to help carry out the assurances provided pursuant to § 54.603(g), or both, as the case may be.

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¹ See, also, § 54.106 which permits certain matters to be incorporated by reference in, and sets forth additional requirements for, applications for grants under the Act.

federal register

TUESDAY, NOVEMBER 2, 1976



PART III:

DEPARTMENT OF LABOR

**Employment and Training
Administration**



PUBLIC EMPLOYMENT SERVICE SYSTEM

Services for Veterans

Title 20—Employees' Benefits

CHAPTER V—EMPLOYMENT AND TRAINING
ADMINISTRATION, DEPARTMENT
OF LABORPUBLIC EMPLOYMENT SERVICE
SYSTEM

Services for Veterans

Notice is hereby given that the Department of Labor, Employment and Training Administration is amending 20 CFR Chapter V by implementing final regulations governing services to veterans by the public employment service system. The regulations are promulgated under 38 U.S.C. Chapters 41 and 42 and under the Wagner-Peyser Act of 1933, as amended, 29 U.S.C. 49 et seq.

The Department published proposed regulations on January 30, 1976 at 41 FR 4702. Interested persons were invited to submit comments on the proposed regulations until March 1, 1976. The Department received several dozen comments. The most significant comments, and the Department's responses thereto are listed below:

1. Most of the State employment service agencies objected to the mathematically stated performance standards set forth at § 605.25 of the proposed regulations. Under the proposed performance standards, as a general rule, if a State agency's statistically measured ratio of services for veterans did not exceed its statistically measured ratio of services for nonveterans, the State agency would virtually automatically be held to be out of compliance with the regulation. Many commentors stated that the proposed regulation was too mechanical and rigid, that it did not sufficiently allow for legitimate judgment factors, and that it did not take into account variables outside a State agency's control. Many commentors stated that, although the statistical "performance standards" might be very useful as indicators of State agency services to veterans, they did not themselves prove a State agency's performance to be necessarily good or poor.

In these final regulations, the Department has designated the statistical measurements as "veterans preference indicators of compliance". A State agency's failure to show up well on the statistical indicators will not itself put a State agency into the status of non-compliance. The State agency will first be given an opportunity to show cause for its apparently poor performance. In these final regulations, moreover, the standards of performance which a State agency must meet are the standards for actual services for veterans, such as standards for registration, standards governing priority in job referral, and standards governing the assignment of Local Veterans Employment Representatives.

2. Many commentors noted that, under the proposed regulations, a State agency which takes full applications on all applicants, and/or which serves veterans and non-veterans at a very high level, would have a more difficult time increasing its ratio of services to veterans over

non-veterans than a State agency which traditionally has provided a lower level of services to veterans and non-veterans. For example, it would be far easier to increase placements from 5 out of 50 to 10 out of 50 than from 20 out of 50 to 40 out of 50. Yet, under the proposed regulations, both State agencies would show the same ratio of improvement. In the final regulations provision is made for establishing a "floor level" of performance for each State agency for each reportable service based on each State agency's past performance and other appropriate factors. Only after the floor level is established will the veterans preference indicators of compliance be applied.

3. Some commentors objected to the use of the term "handicapped veteran" noting, among other reasons, that, under various programs and statutes, DOL requires the use of more than a half-dozen different veterans' classifications. Some thought the term too ambiguous. Others objected to requiring an equal priority in services for veterans, who, though handicapped, did not have a service connected disability as for certain disabled veterans. In the final regulations, the term "handicapped veteran" has been replaced by the term "disabled veteran".

4. Many commentors objected to the requirement that veterans' job applications be reviewed every 10 working days. The final regulations change this requirement to every 30 calendar days to coincide with the automatic deactivation period already in use by State agencies.

5. Some commentors objected to the taking of full applications for veterans who are "job-attached". The final regulations state that full applications need not be taken for such veterans.

The final regulations also make several minor and clarifying changes and have been thoroughly edited and reorganized.

Accordingly 20 CFR Chapter V is revised, effective December 2, 1976, to read as follows:

PART 602—FEDERAL-STATE
EMPLOYMENT SERVICE SYSTEM

1. The title of the Part 602 is changed to read as set forth above.

§ 602.1 [Amended]

2. In § 602.1 Definitions., paragraph (g) is deleted.

3. Section 602.5 is revised to read as follows:

§ 602.5 Services for veterans.

Each State agency shall make services available for veterans pursuant to Part 653, Subpart C of this chapter,

PART 604—POLICIES OF THE UNITED
STATES EMPLOYMENT SERVICE

4. Section 604.1, paragraph (d) is amended to read as follows:

§ 604.1 The placement process.

(d) To give priority in referral to veterans pursuant to Subpart C of Part 653 of this chapter.

5. Section 604.4 is amended to read as follows:

§ 604.4 Services for veterans.

It is the policy of the United States Employment Service to provide services to veterans as set forth at Part 653, Subpart C of this chapter.

PART 605—POLICIES OF THE
SECRETARY OF LABOR [DELETED]PART 653—SERVICES OF THE
EMPLOYMENT SERVICE SYSTEM

6. Part 605 is deleted in its entirety.

7. A new Part 653 is added to read as follows:

Subpart A—Basic Services of the Employment
Service System [Reserved]Subpart B—Services for Migrant and Seasonal
Farmworkers (MSFWs) [Reserved]

Subpart C—Services for Veterans

PURPOSE AND DEFINITIONS

Sec. 653.200 Purpose and scope of subpart.
653.201 Definitions of terms used in subpart.

FEDERAL ADMINISTRATION

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653.211 Role of the Veterans Employment Service (VES).
653.212 Role of Regional Administrator (RA).
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STANDARDS OF PERFORMANCE GOVERNING STATE
AGENCY SERVICES TO VETERANS AND ELIGIBLE
PERSONS

653.220 Standards of performance.
653.221 Standards of performance governing State agency services.
653.222 Performance standard on facilities for VES staff.
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653.224 Performance standards governing the assignment and role of Local Veterans' Employment Representatives (LVERs).
653.225 Standards of performance governing State agency cooperation and coordination with other agencies and organizations interested in the employment development of veterans and eligible persons.
653.226 Standards of performance governing complaints of veterans and eligible persons.

FEDERAL MONITORING OF STATE AGENCY
COMPLIANCE

653.230 Veterans preference indicators of compliance.
653.231 Secretary's annual report to Congress.

AUTHORITY: 38 U.S.C. chapters 41 and 42; Wagner-Peyser Act, as amended, 29 U.S.C. 49 et seq.; sec. 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 Pub. L. 93-567, 88 Stat. 1845.

Subpart A—Basic Services of the Employment
Service System [Reserved]Subpart B—Services for Migrant and Seasonal
Farmworkers (MSFWs) [Reserved]

Subpart C—Services for Veterans

PURPOSE AND DEFINITIONS

§ 653.200 Purpose and scope of subpart.

(a) This subpart contains the Department of Labor's regulations for implementing 38 U.S.C. 2001-2008 (Chapter 41) which requires the Secretary of Labor to refer eligible veterans and eligible persons to employment and training opportunities through the public employment service system established pursuant to the Wagner-Peyser Act, as amended, 49 U.S.C. et seq.

(b) This subpart reiterates the requirement contained in the Department of Labor's Office of Federal Contract Compliance Programs' regulation under 38 U.S.C. 2012(a) at 41 CFR 60-250.33, 41 CFR 60-250.33, paragraphs (a) and (b), require State employment service agencies to refer qualified disabled veterans and veterans of the Vietnam era on a priority basis to job openings listed with them by certain Federal contractors pursuant to 38 U.S.C. 2012(a). Section 653.212(f), moreover, goes beyond the requirement of 41 CFR 60-250.33 by requiring State agencies to give priority in referral to qualified disabled veterans and veterans of the Vietnam era with respect to all job openings listed with the State agency's local offices.

(c) This subpart references the Department of Labor's Office of Federal Contract Compliance Programs' regulation under 38 U.S.C. 2012(b) at 41 CFR 60-250.26. That regulation provides that disabled veterans and veterans of the Vietnam era may file with Local Veterans' Employment Representatives complaints alleging violations of 38 U.S.C. 2012 or of the Department's regulations at 41 CFR Part 60-250. 41 CFR 60-250.26 also sets forth the procedures for handling such complaints.

(d) (1) This subpart partially implements section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974, Pub. L. 93-567, 88 Stat. 1845. Sec. 104 of that Act requires the Secretary of Labor, in consultation and cooperation with the Administrator of Veterans' Affairs and the Secretary of Health, Education, and Welfare, to provide for an outreach and public information program to produce jobs and training opportunities for all persons who were discharged from the Armed Forces within four years of the date they apply for such jobs or job training.

(2) The Department has also implemented section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 in the regulations under the Comprehensive Employment and Training Act (CETA) at 29 CFR Parts 94-99.

(3) The Secretary has also implemented section 104 of the Emergency Jobs and Unemployment Assistance Act of 1974 by Secretary's Order 17-76, which establishes within the Department of Labor a Secretary's Committee on Veterans' Affairs, and which assigns to the Committee the following functions:

(i) Serving as the principal advisory and coordinating group to the Secretary of Labor on matters affecting veterans;

(ii) Consulting with and providing guidance to the appropriate DOL Agencies and the DOL Program and Budget Review Committee (PBRC) on the formulation, implementation and redirection of departmental policies and programs as they affect veterans, especially in the areas of unemployment, job training, employment and reemployment;

(iii) Reviewing the operational effectiveness of departmental plans and programs affecting veterans;

(iv) Facilitating DOL executive-level communications on veterans' affairs within the Department and with other governmental agencies, veterans' organizations, labor, management, and the Congress;

(v) Reviewing and suggesting research essential to the implementation of effective departmental programs on behalf of veterans; and

(vi) Coordinating the preparation of any reports to the Congress concerning veterans' affairs which involve the activities of more than one DOL agency.

(e) (1) This subpart also implements 38 U.S.C. Chapter 42 in the sense that Title IV of the Vietnam Era Veterans' Readjustment Assistance Act of 1974 amended 38 U.S.C. Chapter 41, section 2007 by adding a new subsection (b) which states:

The Secretary of Labor shall establish definitive performance standards for determining compliance by State public employment agencies with the provisions of this chapter and chapter 42 of this title. A full report as to the extent and reasons for any noncompliance by any such State agency during any fiscal year, together with the agency's plan for corrective action during the succeeding year, shall be included in the annual report of the Secretary of Labor required by subsection (c) of this section.

(2) Since section 2012 of 38 U.S.C. Chapter 42 places responsibilities on State employment service agencies, this subpart prescribes performance standards for such agencies. The Department has also prescribed regulatory standards under 38 U.S.C. 2012 for such agencies at 41 CFR Part 60-250.

(f) This subpart references section 205(c) (5) of the Comprehensive Employment and Training Act of 1973 (CETA), as amended, 29 U.S.C. 801 et seq. Section 205(c) (5) requires that applicants for public service employment funds under Title II of CETA must provide the Department of Labor with assurances that they will give special consideration to unemployed veterans who served in the Armed Forces in Indochina or Korea on or after August 5, 1964.

§ 653.201 Definitions of terms used in subpart.

"Administrator, United States Employment Service (Administrator)" shall mean the chief official of the United States Employment Service (USES).

"Assistant Veterans' Employment Representative (AVER)" shall mean a Federal employee who is designated as an

assistant to a State Veterans' Employment Representative (SVER).

"Director, Veterans Employment Service (VES)" shall mean the Department of Labor official who, under the Administrator, is the chief official of the Veterans Employment Service.

"Disabled Veteran" shall mean a person entitled to disability compensation under laws administered by the Veterans Administration for a disability rated at less than 30 per centum.

"Eligible person" shall mean:

(1) The spouse of any person who died of a service-connected disability;

(2) The spouse of any member of the armed forces serving on active duty who, at the time of application for assistance under this subpart, is listed, pursuant to 37 U.S.C. 556 and the regulations issued thereunder, by the Secretary concerned, in one or more of the following categories and has been so listed for a total of more than 90 days: (i) Missing in action, (ii) captured in line of duty by a hostile force, or (iii) forcibly detained or interned in line of duty by a foreign government or power; or

(3) The spouse of any person who has a total disability permanent in nature resulting from a service-connected disability or the spouse of a veteran who died while a disability so evaluated was in existence.

"Eligible veteran" shall mean a person who served in the active military, naval or air service and who was discharged or released therefrom with other than a dishonorable discharge.

"Local Veterans' Employment Representative (LVER)" shall mean an official in a local office of a State employment service agency, designated by the State Director to serve veterans and eligible persons pursuant to this subpart.

"Regional Administrator (RA)" shall mean the chief official of the Employment and Training Administration in each Department of Labor region.

"Regional Veterans' Employment Representative (RVER)" shall mean the Federal official designated by the Director, Veterans Employment Service, in each Department of Labor regional office who, under the RA, serves veterans and eligible persons pursuant to this subpart.

"Special disabled veteran" shall mean a person entitled to disability compensation under laws administered by the Veterans Administration for a disability rated at 30 per centum or more, or a person whose discharge or release from active duty was for a disability incurred or aggravated in line of duty.

"State Veterans' Employment Representative (SVER)" shall mean a Federal official, designated by the Director, Veterans Employment Service, who, under the RA and the RVER, serves the employment needs of veterans and eligible persons in a particular State pursuant to this subpart.

"United States Employment Service (USES)" shall mean the component of the Employment and Training Administration of the Department of Labor, established under the Wagner-Peyser Act

of 1933 to coordinate a nationwide system of public employment service agencies.

"Veteran" shall mean "eligible veteran", "disabled veteran", "special disabled veteran", and "Veteran of the Vietnam era".

"Veteran of the Vietnam era" shall mean a person (1) who (i) served on active duty for a period of more than 180 days, any part of which occurred during the Vietnam era (August 5, 1964 through May 7, 1975) and was discharged or released therefrom with other than a dishonorable discharge, or (ii) was discharged or released from active duty for a service-connected disability if any part of such active duty was performed during the Vietnam era, and (2) who was so discharged or released within the 48 months preceding the person's application for employment under this subpart.

"Veterans Employment Service (VES)" shall mean the organizational component within the United States Employment Service which is concerned with policies and services relating to employment development on behalf of veterans and eligible persons.

FEDERAL ADMINISTRATION

§ 653.210 Role of the Administrator.

The Administrator, USES, shall have overall responsibility for administering this subpart and for monitoring, in coordination with other ETA components, State agency compliance with the regulations under this subpart.

§ 653.211 Role of the Veterans Employment Service (VES).

(a) The Director of the Veterans Employment Service (VES) shall monitor and evaluate the performance of the State agencies under this subpart. The Director, VES, shall make every effort, in coordination with the Veterans Administration, Department of Health, Education, and Welfare, other Federal and State agencies, educational institutions, unions, veterans organizations, and community groups to produce job and training opportunities for veterans and eligible persons through Department of Labor administered programs relating to unemployment, job training, and employment.

(b) The Director, VES, shall have a VES field staff comprised of Regional Veterans' Employment Representatives (RVERs), State Veterans' Employment Representatives (SVERs), and assistants to the SVERs (AVERs) and their staffs. RVERs, SVERs and AVERs shall provide functional supervision, guidance and assistance to the State agencies pursuant to this subpart.

§ 653.212 Role of the Regional Administrator (RA).

Each RA shall have overall responsibility in the region for administering this subpart and for monitoring State agency compliance with the regulations under this subpart.

§ 653.213 Assignment and role of Regional Veterans' Employment Representatives (RVERs).

(a) The Director, VES, shall assign an RVER to each Employment and Training Administration (ETA) regional office. Every RVER shall be an eligible veteran, who shall be appointed pursuant to the provisions of 5 U.S.C. which govern appointments in the Federal competitive service, and who shall be paid pursuant to the provisions of 5 U.S.C. Chapter 51, and Chapter 53 of subchapter III.

(b) Every RVER shall be stationed in an ETA regional office, shall, under the RA, be a member of the ETA regional executive staff, and shall be the regional representative of, and shall be administratively responsible to, the Director, VES.

(c) The RVER shall provide advice and expertise to the RA on matters relating to ETA services to veterans and eligible persons. The RVER shall also:

(1) Supervise the activities of all VES field staff within the region;

(2) Provide support for, and assist in the coordination of, all ETA policies and programs as they affect veterans, especially policies and programs relating to unemployment, job training, and employment by:

(i) Providing direction and support to SVERs and AVERs;

(ii) Reviewing SVER and other findings regarding State agency compliance with the regulations under this subpart and recommending appropriate corrective action to the RA;

(iii) Assisting other ETA regional office staff in the coordination of ETA employment and training programs as they affect veterans;

(iv) Coordinating within the region ETA activities relating to veterans' services with other agencies and organizations, such as the Department of Defense, the Veterans Administration, the U.S. Civil Service Commission, the President's Committee on Employment of the Handicapped, the Office of Vocational Rehabilitation and other Department of Health, Education, and Welfare agencies, labor unions, veterans organizations, employers and community organizations;

(v) Cooperating with the Employment Standards Administration of the Department of Labor in the resolution of complaints by veterans under the Department's regulations at 41 CFR Part 60-250; and

(vi) Monitoring and assessing unemployment, job training, employment and other services to veterans under ETA regulations.

(3) Monitor and evaluate State agency performance under this subpart by:

(i) Reviewing and analyzing monthly, quarterly and annual reports required by ETA data systems. RVERs shall compare actual services to veterans by each State agency by comparing the statistics generated by the veterans preference indicators of compliance set forth in § 653.-

230 against the performance standards set forth at § 653.221-26; and

(ii) With input from SVERs as appropriate, assisting the RA in conducting that portion of periodic and special reviews of State agency performance pertaining to the provision of services to veterans.

§ 653.214 Assignment and role of State Veterans' Employment Representatives (SVERs).

(a) A representative of the VES shall be assigned to each State agency to serve as the State Veterans' Employment Representative (SVER). One Assistant Veterans' Employment Representative (AVER) shall be assigned to each State agency per each 250,000 eligible veterans and eligible persons in the State population and additional AVERs shall be assigned whenever the data collected under this subpart indicates that additional AVERs are necessary.

(b) Each SVER and AVER shall be an eligible veteran, who, at the time of appointment, shall have been a bona fide resident of the State for at least 2 years, and shall be appointed pursuant to the provisions of 5 U.S.C. which govern appointments to the Federal competitive service, and who shall be paid pursuant to the provisions of 5 U.S.C. Chapter 51 and Chapter 53, subchapter III.

(c) The SVER, AVERs, and their VES Federal support staff shall be attached to the State office staff of the State agency to which they are assigned.

(d) Under the direction and supervision of the RA and the RVER, and in cooperation with the State agency staff and the staffs of other ETA funded employment and training programs in the State, the AVERs and SVER shall:

(1) Provide support and assist in coordinating all ETA policies and all ETA funded programs in the State as they affect veterans and eligibility persons, especially policies and programs relating to unemployment, job training, and employment.

(2) Functionally supervise services to veterans by the State agency. Functional supervision shall consist of assisting State agency personnel in carrying out services to veterans and eligible persons and evaluating their performance. Functional supervision shall entail providing technical assistance, making suggestions for improvement of services, helping to plan programs and projects, checking for compliance with ETA regulations affecting veterans helping to correct errors by working with local and State staffs, analyzing work as it affects veterans and eligible persons, training new State agency employees and providing refresher courses for State agency staff, bringing matters which require corrective action to the attention of those State agency personnel who have authority over policy, procedures and staff. Functional supervision does not authorize an SVER or AVER to hire, fire, discipline or issue directives to State agency employees. Nor does it authorize an

SVER or AVER to make regulations, change procedures or establish policies for the State agency without specific authority from the State agency;

(3) Engage in job development and job advancement activities on behalf of veterans and eligible persons, including coordination with the Veterans Administration in its carrying out of the Veterans Outreach Services Program under subchapter IV of chapter 3 of 38 U.S.C., and including the conduct of job fairs, job fairs and other special programs to match veterans and eligible persons with appropriate job and job-training opportunities;

(4) Assist in securing and maintaining current information on available employment and training opportunities, using, when feasible, electronic data processing and telecommunications systems, and in matching veteran and eligible persons applicants' qualifications with available jobs, training and apprenticeship opportunities;

(5) Promote the interest of employers and labor unions in employing and in conducting on-the-job training and apprenticeship programs for veterans and eligible persons;

(6) Maintain regular contact with employers, labor unions, training program sponsors and veterans organizations to keep them advised of veterans and eligible persons who are available for employment and training;

(7) Keep veterans and eligible persons advised of opportunities for employment and training; and

(8) Coordinate, in conjunction with the RVER as appropriate, ETA activities relating to veterans services within the State with the activities of other agencies and organizations such as the Veterans Administration, the Department of Defense, the U.S. Civil Service Commission, the Department of Health, Education, and Welfare, State agencies such as Vocational Rehabilitation agencies, Governors Committees on Employment of the Handicapped, and unions, veterans organizations, employer associations and other community groups.

(9) Monitor and evaluate State agency performance under this subpart using local office and State agency reports including:

(i) Monthly, quarterly and annual reports of actual activity levels generated by required data systems;

(ii) Reports generated by the State agency Self-Appraisal System; and

(iii) Internal reports prepared by State agency staffs such as field supervisory, technical assistance and research staffs.

(10) Compare actual services to veterans and eligible persons against the standards for State agency performance set forth at § 653.221-26.

(11) Conduct periodic onsite reviews of local offices to assess their performance under this subpart. Such reviews shall include detailed, comprehensive analyses of all local office activities related to serving veterans and eligible persons, and spot-checks of particular local

offices to validate information the SVER has obtained through the State agency Self-Appraisal System, regular data systems, field supervisors, technical staff or otherwise. The SVER shall review the performance of large local offices at least once each fiscal year on a formal, comprehensive, in-depth basis, and shall periodically review smaller local offices which evidence problems in providing services to veterans and eligible persons pursuant to this subpart until the problems are resolved.

STANDARDS OF PERFORMANCE GOVERNING STATE AGENCY SERVICES TO VETERANS AND ELIGIBLE PERSONS

§ 653.220 Standards of performance.

Sections 653.221-226 set forth the standards of performance governing services to veterans and eligible persons which must be met by the State employment service agencies.

§ 653.221 Standards of performance governing State agency services.

(a) Each State agency shall assure that all of its local offices, using LVERs and other staff, offer the following services to all veterans and eligible persons:

(1) *Registration.* Local offices shall encourage all veterans and eligible persons to file complete applications for appropriate job or training opportunities by explaining the services they may expect to receive on the filing of a full application. Local offices, however, may take partial applications for veterans and eligible persons if they are job attached, or if they are on strike or layoff and expecting to return to work unless such applicants request the opportunity to file full applications. Local offices may also take partial applications on veteran and eligible person applicants who say they do not wish to file full applications after the benefits of filing a full application have been explained to them.

(2) *Interviewing.* As appropriate, local offices shall interview veterans and eligible persons on a priority basis to review and analyze the information on their application cards, to assure that all of the applicants' qualifications for employment are adequately presented, to determine any need for employment counseling, to evaluate the occupationally significant facts about the applicants, and to select suitable job choices and job-finding techniques.

(3) *Counseling.* As appropriate, qualified local office staff shall discuss with veteran and eligible person applicants on a priority basis their present and potential qualifications for work, alternative vocational choices, and occupational requirements to assist them in formulating a plan to achieve their occupational and/or training goals. As appropriate, the counselors shall also provide such applicants with assistance in solving problems relating to the obtaining or holding of jobs.

(4) *Testing.* As appropriate, qualified local office staff shall administer objective aptitude and proficiency tests to veteran and eligible person applicants on a priority basis.

(5) *Referral to supportive services.* As appropriate, local offices shall refer veteran and eligible person applicants on a priority basis to supportive services available in the community such as medical, legal aid, child care and transportation assistance, which are likely to assist them to obtain employment and/or training.

(6) *Job development.* As appropriate, local offices shall attempt to develop job openings for veteran and eligible person applicants on a priority basis through employer contacts and otherwise whenever suitable job openings are not available in local office files. Such efforts shall include attempts to foster the elimination of hiring requirements not related to job performance.

(7) *Job and training referral.* (i) Whenever there is more than one applicant qualified for a job opening, including a job opening listed under the mandatory listing requirement of 38 U.S.C. 2012, or for a training opportunity, local offices, except as provided in paragraph (a) (7) (ii) of this section, shall observe the following order of priority in making referrals to the job openings or training opportunity:

(1) Qualified special disabled veterans;

(2) Qualified veterans of the Vietnam era;

(3) Qualified disabled veterans;

(4) All other qualified veterans and eligible persons;

(5) Qualified nonveterans.

(ii) Whenever a State agency or a local office is a subgrantee or contractor under the Comprehensive Employment and Training Act (CETA) or Title IV of the Social Security Act (Work Incentive (WIN) Program), the local office shall refer veterans to job and training opportunities under those programs in accordance with the CETA regulations at 29 CFR Parts 94-99 or the WIN regulations at 29 CFR Part 56.

(b) State agencies shall:

(1) Establish outreach programs designed to make veterans and eligible persons aware of the ES services available to them. Such programs shall include contact with veterans organizations, Veterans Administration facilities, military bases, military hospitals and other appropriate organizations. The State agency public information program shall develop and disseminate labor market information to assist veterans and eligible persons in job search activities, using public service announcements in the media as appropriate.

(2) Provide special designation, filing and retrieval procedures in each local office to readily identify veteran and eligible person applications and to monitor the provision of services to veteran and eligible person applicants on a priority basis. Separate special designation shall also be given to applications of disabled veterans.

(c) Local offices shall review veteran and eligible person applications each 30 calendar days and, if no reportable service has been recorded during the previous 30 calendar days, shall, if possible, determine each applicant's current status and

desire for further ES assistance by telephone, visit, or mail. If further assistance is desired by the applicant, the local office shall initiate reportable services as appropriate. The term "reportable services", as used in this paragraph, shall mean counseling, job development, referral to a job, referral to training, referral to supportive services, testing and placement. A call-in shall also be considered as a reportable service, but only if the call-in is made to initiate another reportable service and only if contact is successfully made with the applicant by telephone or if the applicant responds to a mailed call-in card. All reportable services given shall be noted on the applicant's application card.

(d) Local offices shall assure that the applications of veterans and eligible persons are not automatically inactivated in accordance with normal procedures without the following special review:

(1) Identification of the applications of veterans and eligible persons scheduled for inactivation;

(2) A file search for their records; and evidence that warrants inactivation such as placement in a job or training opportunity, an explicit request from an applicant to inactivate an application, notice that applicant has moved out of the local office jurisdiction, etc. If inactivation is scheduled but not warranted, appropriate reinstatement actions should be taken.

(e) Local offices shall conduct job development activities including efforts to encourage the elimination of hiring requirements not related to job performance on behalf of veterans and eligible persons.

(f) Whenever feasible, local offices shall refer qualified veterans and eligible applicants within two working days after they file their applications to job opportunities developed under the mandatory listing requirement of the Department's regulations at 41 CFR Part 60-250, under the Comprehensive Employment and Training Act (CETA), or contained in Job Bank listings. If necessary, local office hours and staff working schedules shall be adjusted so that this requirement can be met.

(g) Local offices shall assure that the applications of veterans and eligible persons are never inactivated without a special review consisting of:

(1) The identification of the applications and records of veterans and eligible persons scheduled for inactivation; and

(2) The examination of each application for evidence that warrants its inactivation such as evidence that the applicant has been placed in a job or training opportunity, or of an explicit request from an applicant to inactivate an application, or that applicant has moved out of the local office's jurisdiction, etc.

§ 653.222 Performance standard on facilities for VES staff.

Each State agency shall provide adequate and appropriate facilities to the SVER, AVERs and VES support staff attached to the State agency.

§ 653.223 Performance standards on reporting.

(a) State agencies shall provide RVERs, SVERs, and AVERs with access to regular and special internal State agency reports which relate in whole or in part with services to veterans and/or eligible persons.

(b) No special reporting requirements are established by this subpart. Existing reporting systems include information on services to veterans and eligible persons and shall be used by ETA and the State agencies to administer the provisions of this subpart. ETA, however, may require special reports from State agencies from time to time.

§ 653.224 Performance standards governing the assignment and role of Local Veterans' Employment Representatives (LVERs).

(a) At least one member of each State agency staff, preferably an eligible veteran, shall be assigned by the State Director as a full-time Local Veterans' Employment Representative (LVER) to every local office which:

(1) Has had 1,000 new and renewal applications from veterans and eligible persons during the last Federal fiscal year; or

(2) Has a total of 6,000 veterans and eligible persons in the local office administrative area population.

(b) The State Director may:

(1) Assign additional full-time LVERs to local offices described in paragraph (a) of this section based on the State Director's determination of need; and

(2) Assign less than full-time LVERs to local offices described in paragraph (a) of this section if a lack of need for a full-time LVER is documented to the satisfaction of the Director, VES, as evidenced by the written approval of the Director, VES.

(c) The State Director shall assign LVERs on a part-time basis to local offices other than those described in paragraph (a) of this section. State Directors shall assure that periodic evaluations are made to determine the adequacy of services provided to veterans and eligible persons, and if necessary, they shall reallocate the time devoted to serving veterans and eligible persons by, for example, assigning additional full-time LVERs.

(d) Each LVER shall discharge, at the local office level, the duties prescribed for the LVER in paragraph (d) of § 653.214. The LVER may also be delegated line supervision over veterans units, assistant LVERs and veteran aides and may be assigned direct duties with respect to services for veterans and eligible persons by the local office manager.

(e) Each LVER shall be administratively responsible to the local office manager and shall provide functional supervision over all local office services to veterans and eligible persons. The term "functional supervision" as used in this paragraph shall mean evaluating local office personnel in their performance of services to veterans and eligible persons and assisting them to carry out these services more effectively.

(1) Functional supervision entails providing technical assistance, making suggestions for the improvement of services, helping to plan programs, initiating projects, checking for compliance with regulations, helping to correct errors by working with local office staff, analyzing work as it affects veterans and eligible persons, training new local office employees, providing refresher courses for other staff, and assisting all local office personnel to improve services to veterans and eligible persons. It also involves the bringing of matters which the LVER believes require corrective action to the attention of the local office manager and other officials who have line authority to set or change policy and procedure and to supervise staff.

(2) Functional supervision does not entail the right to hire, fire, or discipline any local office employee. Nor does it authorize an LVER to make regulations, change procedures or establish policies for the local office without specific authority from the local office manager.

§ 653.225 Standards of performance governing State agency cooperation and coordination with other agencies and organizations interested in the employment development of veterans and eligible persons.

(a) Each State agency shall establish cooperative working relationships with the Veterans Administration (VA) office serving the State to maximize the use of VA training programs for veterans and eligible persons, particularly on-the-job and other skill training. Such working relationships should provide for the exchange of information on available training opportunities and on veterans and eligible persons available to be trained, the placing of job orders with the ES by employers who provide VA-approved on-the-job training, the referral of veterans and eligible persons to such job openings, and joint ES-VA programs to aid VA field staff in providing assistance to employers with VA programs. Each State agency should develop a written agreement with its VA counterpart covering areas of mutual concern and delineating each agency's areas of responsibility.

(b) Each State agency shall develop cooperative arrangements with public agencies and other organizations who are sponsors of programs under the Comprehensive Employment and Training Act of 1973 (CETA). State agencies shall make their staffs aware of the fact that, under section 205(c)(5) of the Comprehensive Employment and Training Act, sponsors of public service employment programs under Title II of that Act are required to make special efforts to acquaint veterans with the public service jobs available under Title II of CETA and to coordinate their efforts on behalf of veterans with ES activities under this subpart.

§ 653.226 Standards of performance governing complaints of veterans and eligible persons.

(a) Any veteran or eligible person may file a complaint with the LVER. The

LVER shall handle the complaint in accordance with the provisions of Subpart E of Part 658 of this chapter except that, if the complaint relates to the responsibilities of an employer under 38 U.S.C. 2012, the LVER shall follow the Department's complaint procedures set forth at 41 CFR Part 60-250.

(b) Each local office shall have information on the complaint system available to veterans and eligible persons at all times, and shall display a poster which advises applicants about the system.

FEDERAL MONITORING OF STATE AGENCY COMPLIANCE

§ 653.230 Veterans preference indicators of compliance.

(a) To help in determining whether the standards of performance set forth in §§ 653.221-226 are being met, the ETA shall use the floor levels and the veterans preference indicators of compliance set forth in this section to compare the level of services provided to veterans and eligible persons with the level of services provided to nonveterans.

(b) The term "applicants" as used in this section shall mean individuals who filed or renewed job applications during the fiscal year. To improve statistical comparability, the term "nonveteran" as used in this section shall not include women and persons 19 years of age or younger. The term "veteran" as used in this section, shall include eligible persons. The term "disabled veteran", as used in this section, shall include "special disabled veteran".

(c) To prevent State agencies, which are actually performing at low levels of accomplishment, from mathematically appearing, according to the veterans preference indicators of compliance, to be doing well, the ETA shall establish a floor (minimum) level of expected accomplishment for each State for each reportable service for each Federal fiscal year. Only after a State agency reaches its expected floor level of accomplishment shall the veterans preference indicators of compliance be applied. Each year ETA shall consider each State agency's past year's accomplishments as a major factor in establishing the floor level of accomplishment for the next Federal fiscal year. Computation of the floor levels shall also be based on external and other appropriate factors. The floor levels of accomplishment shall be stated as follows:

- (1) Veterans Counseled
Veteran Applicants $\times 100$ percent =
- (2) Veterans Enrolled in Training
Veterans Applicable
 $\times 100$ percent =
- (3) Veteran Job Development Contacts
Veterans Applicable
 $\times 100$ percent =
- (4) Veteran Applicants Placed
Veterans Applicants
 $\times 100$ percent =
- (5) Veteran Applicants Inactivated with Some Service
Veteran Applicants
 $\times 100$ percent =

ETA shall periodically publish numerical values to fill out these floor level equations in the FEDERAL REGISTER as amendments to this section.

(d) The ETA shall compare the level of State agency services for veterans versus that for nonveterans by examining rates of service rather than the numbers of persons served to compensate for the differing sizes of comparison groups and to avoid the difficulties associated with establishing absolute numbers under varying conditions, time periods and locations. In addition, the two groups, veterans and nonveterans, shall be compared after adjustments for demographic and other appropriate characteristics to make them as comparable as possible within the limitations of available data systems.

$$\frac{\text{Veteran counseled}}{\text{Veteran applicants}} + \frac{\text{Nonveterans counseled}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(2) The ratio of veteran applicants referred to training to the total number of veteran applicants shall exceed the ratio of nonveteran applicants referred to training to the total number of nonveteran applicants by at least -- %.

$$\frac{\text{Veterans enrolled in training}}{\text{Veteran applicants}} + \frac{\text{Nonveterans enrolled in training}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(3) The ratio of job development contacts made for veterans to the total number of veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least -- %.

$$\frac{\text{Job development contacts for veterans}}{\text{Veteran applicants}} + \frac{\text{Job development contacts for nonveterans}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(4) The ratio of veteran applicants placed in jobs to the total number of veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least -- %.

$$\frac{\text{Veterans placed}}{\text{Veteran applicants}} + \frac{\text{Nonveterans placed}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(5) The ratio of veteran applicants inactivated with some service to the total number of veteran applicants shall be more than the ratio of nonveteran applicants inactivated with some service to the total number of nonveteran applicants by at least -- percent.

$$\frac{\text{Veterans inactivated with some service}}{\text{Veteran applicants}} + \frac{\text{Nonveterans inactivated with some service}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(g) Veterans preference indicators of compliance for service to veterans of the Vietnam era are as follows:

(1) The ratio of Vietnam-era veteran applicants counseled to the total number of Vietnam-era applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least -- percent.

$$\frac{\text{Vietnam-era veterans counseled}}{\text{Vietnam-era veteran applicants}} + \frac{\text{Nonveterans counseled}}{\text{Nonveteran applicants}} - 1.00$$

(2) The ratio of Vietnam-era veteran applicants enrolled in training to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants enrolled in training to the total number of nonveteran applicants by at least -- percent.

$$\frac{\text{Vietnam-era veterans enrolled in training}}{\text{Vietnam-era veteran applicants}} + \frac{\text{Nonveterans enrolled in training}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(3) The ratio of job development contacts made for Vietnam-era veterans to the total number of Vietnam-era veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least -- percent.

(e) ETA shall establish numerical values for the veterans preference indicators of compliance for each Federal fiscal year for:

- (1) Veterans versus nonveterans;
- (2) Veterans of the Vietnam era versus nonveterans; and
- (3) Disabled veterans versus nonveterans.

(f) Veterans preference indicators of compliance for service to all veterans shall be stated as follows:

(1) The ratio of veteran applicants counseled to the total number of veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least ----- percent.

Job development contacts for Vietnam-era veterans

Vietnam-era veteran applicants

$$\frac{\text{Job development contacts for nonveterans}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(4) The ratio of Vietnam-era veteran applicants placed in jobs to the total number of Vietnam-era veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least -- percent.

$$\frac{\text{Vietnam-era veterans placed}}{\text{Vietnam-era veteran applicants}} - \frac{\text{Nonveterans placed}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(5) The ratio of Vietnam-era veteran applicants inactivated with some service to the total number of Vietnam-era veteran applicants shall be more than the ratio of non-veteran applicants inactivated with some service to the total number of nonveteran applicants by at least -- %.

Vietnam-era veterans inactivated with some service

Vietnam-era veteran applicants

$$\frac{\text{Nonveterans inactivated with some service}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(h) Veterans preference indicators of compliance for service to disabled veterans are as follows:

(1) The ratio of disabled veteran applicants counseled to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants counseled to the total number of nonveteran applicants by at least -- %.

$$\frac{\text{Disabled veterans counseled}}{\text{Disabled veteran applicants}} - \frac{\text{Nonveterans counseled}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(2) The ratio of disabled veteran applicants enrolled in training to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants enrolled in training to the total number of nonveteran applicants by at least -- percent.

$$\frac{\text{Disabled veterans enrolled in training}}{\text{Disabled veteran applicants}} - \frac{\text{Nonveterans enrolled in training}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(3) The ratio of job development made for disabled veterans to the total number of disabled veteran applicants shall exceed the ratio of job development contacts made for nonveterans to the total number of nonveteran applicants by at least -- percent.

Job development contacts for disabled veterans

Disabled veteran applicants

$$\frac{\text{Job development nonveterans}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(4) The ratio of disabled veteran applicants placed in jobs to the total number of disabled veteran applicants shall exceed the ratio of nonveteran applicants placed in jobs to the total number of nonveteran applicants by at least -- %.

$$\frac{\text{Disabled veterans placed}}{\text{Disabled veteran applicants}} - \frac{\text{Nonveterans placed}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(5) The ratio of disabled veteran applicants inactivated with some service to the total number of disabled veteran applicants shall exceed the ratio of nonveterans inactivated with some service to the total number of nonveteran applicants by at least -- percent.

Disabled veterans inactivated with some service

Disabled veteran applicants

$$\frac{\text{Nonveterans inactivated with some service}}{\text{Nonveteran applicants}} - 1.00 = \text{--- \%}$$

(i) The veterans preference indicator of compliance for State agency action under the mandatory job listing requirements of 38 U.S.C. 2012 shall be: The ratio of the total number of veterans of the Vietnam era and special disabled veterans placed in mandatory listing job openings to total number of individuals placed in mandatory listing job openings shall exceed 20 percent.

(j) Following analysis of the past year's accomplishments, the numerical value for each of the veterans preference compliance indicators will be published in the *FEDERAL REGISTER* as amendments to paragraphs (f), (g) and (h) of this section.

(k) State agency performance under this subpart shall be reviewed on a quarterly basis by the ETA regional offices during the conduct of regular Operational Planning and Review System (OPRS) reviews. In addition, State agency performance under this subpart shall be formally reviewed by the ETA national office on an annual basis using the floor levels of accomplishment and the veterans preference indicators of compliance. The full results of these reviews shall be incorporated into the Secretary's annual report to the Congress. If a State agency fails to meet three of the five floor levels of accomplishment

set forth at paragraph (c) of this section, including the floor level for placement, or if it fails to meet more than one-half of the total number of veterans preference indicators of compliance, with each placement indicator having double weight, ETA shall consider this as evidence that the State agency is not complying with the performance standards at § 653.221-226. Such State agencies shall be required to provide documentary evidence to the ETA that their failure is based on good cause. If good cause is not shown, the ETA, pursuant to Subpart H of Part 658 of this chapter, shall formally designate the State agency as out of compliance, shall require it to submit a corrective action plan for the following Federal fiscal year, and may take other action against the State agency pursuant to Subpart H of Part 658 of this chapter.

(1) Even though a State agency veterans' services statistics, including the floor levels of accomplishment and the veterans preference indicators of compliance, indicate adequate services to veterans, the ETA may take corrective action against a State agency pursuant to Subpart H of Part 658 of this chapter if other information comes to the attention of the ETA which indicates that a State agency is not complying with the requirements of this subpart.

§ 653.231 Secretary's annual report to Congress.

(a) The Secretary shall report, after the end of each Federal fiscal year, on the success of the Department and the State agencies in carrying out the provisions of this subpart. The report shall include, by State:

(1) The number of recently discharged or released eligible veterans, disabled veterans, other eligible veterans and eligible persons who requested assistance through the State agency; and

(2) Of the categories set forth in paragraph (a)(1) of this section, the number placed in employment, placed in job-training opportunities, or otherwise assisted.

(b) The report shall include any determinations that:

(1) A State agency demonstrated a lack of need for assigning a full-time LVER in accordance with § 653.224 (b) (2); and

(2) Funds made available under the prior year's appropriations Act were not needed for carrying out the purposes of this subpart.

(c) The report shall include a designation of State agencies which ETA formally designated as out of compliance pursuant to § 653.230(k) with the standards of performance set forth in this subpart along with those agencies' plans for corrective action during the succeeding Federal fiscal year.

Signed at Washington, D.C., this 27th day of October 1976.

WILLIAM H. KOLBERG,
Assistant Secretary for
Employment and Training.

[FR Doc. 76-31944 Filed 11-1-76; 8:45 am]

federal register

TUESDAY, NOVEMBER 2, 1976



PART IV:

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

■

**PROCEDURES FOR PUBLIC
AND REGULATORY
HEARINGS AND
REGULATIONS
GOVERNING STANDARDS
OF CONDUCT AND
CONFLICT OF INTEREST**

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Docket No. 76N-0323]

ADMINISTRATIVE PRACTICES AND PROCEDURES

Procedures for Public and Regulatory Hearings; Regulations Governing Standards of Conduct and Conflict of Interest

The Food and Drug Administration (FDA) is establishing procedures for public hearings before the Commissioner of Food and Drugs and procedures for regulatory hearings, and is adopting regulations governing standards of conduct and conflict of interest for agency employees.

The regulations shall be effective December 2, 1976. The public hearings before the Commissioner and the regulatory hearing before FDA governed by Subparts E and F of Part 2 (21 CFR Part 2) could be either an alternative to a formal trial-type hearing or supplementary to existing statutory procedures, or, in the case of some hearings governed by Subpart F, the exclusive means for resolving factual issues on which the right to an informal hearing is provided by statute. The regulations contain some revisions and additions to the proposed regulations; these revisions and additions are discussed below. The major change consists of a revision of § 2.512 (21 CFR 2.512) to make regulatory hearings public unless specified conditions are met. The Commissioner invites comments prior to the effective date of these changes.

In the FEDERAL REGISTER of May 27, 1975 (40 FR 22950), the Commissioner issued regulations governing a broad range of FDA administrative practices and procedures. Subpart E of that order consisted of rules governing public hearings before the Commissioner; Subpart F consisted of rules governing regulatory hearings before FDA; and Subpart G consisted of standards of conduct for, and provisions to guard against conflict of interest by, agency employees. Although the regulations were published as a final order, the Commissioner allowed 60 days for comment and delayed their effective date for one month. In the FEDERAL REGISTER of June 20, 1975 (40 FR 26027) the period for filing comments, but not the effective date, was extended for an additional 30 days.

On July 31, 1975, the United States District Court for the District of Columbia issued an order permanently enjoining the Commissioner from issuing the regulations "without complying, as a condition precedent, with the requirements of section 553 of the Administrative Procedure Act, 5 U.S.C. 553." *American College of Neuropsychopharmacology v. Weinberger, et al.*, Civil Action No. 75-1187. Accordingly, in a notice published in the FEDERAL REGISTER of August 4, 1975 (40 FR 32750), the Commissioner stayed the effectiveness of the regulations until further notice. Pursuant to the Court's Order, the Commissioner had the Court's Findings of Fact,

Conclusions of Law, and Order published in the FEDERAL REGISTER of August 6, 1975 (40 FR 33063). Rather than appeal the District Court's ruling, the Commissioner concluded that the wiser course would be to republish the May 27 regulations as a proposal. This was done on September 3, 1975 (40 FR 40681), and 30 additional days were allowed for comment.

When the full set of procedural regulations was republished as a proposal for comment, the Commissioner recognized that it might ultimately prove desirable to issue individual subparts as separate final orders. The relative sparsity of comments on Subparts E, F, and G, together with the greater attention paid to other provisions of the proposed regulations, makes it appropriate to issue these subparts as final regulations without waiting for the completion of the remaining subparts of the September 3, 1975 proposal. Publication of Subparts E, F, and G will also enable the agency to convene hearings of the types provided for with assurance that all participants will be governed by the same procedural requirements.

The following paragraphs summarize the comments received on Subparts E, F, and G and the Commissioner's response to each, as well as certain revisions in the proposed regulations or preamble and additional explanation of the regulations made by the Commissioner on his own initiative. The Commissioner is issuing the revisions as part of the final regulations because they are an intrinsic part of the regulations; it is in the public interest to implement the regulations as a whole without further delay. Furthermore, as indicated in the comments, several of the revisions simply clarify the meaning of the regulations as proposed. The Commissioner invites comments on the revisions prior to the effective date of the regulations, and will carefully consider any such comments received.

PUBLIC HEARING BEFORE THE COMMISSIONER (SUBPART E)

1. The sole comment received on Subpart E related to § 2.403(a) (21 CFR 2.403(a)). It suggested that any individual designated to conduct a public hearing be required to be both unbiased and free from any conflict of interest regarding the matter to be heard. It further urged that "appropriate" provision be made for the separation of prosecutorial and investigative functions from the function of presiding at a hearing.

The Commissioner concludes that it would be redundant to establish conflict of interest requirements for presiding officers because, as federal employees, they are already subject to criminal prohibitions and regulations with respect to conflict of interest; e.g., under 18 U.S.C. 208 and Subpart G of this part. It is clear that a presiding officer must be a federal employee from both the preamble and the reference in § 2.403(a) in conjunction with the term "other Food and Drug Administration employees."

Safeguards to ensure unbiased consideration are appropriate in proceedings

that directly affect particular interests and that are to be decided on a limited evidentiary record. The Commissioner has proposed to impose requirements of this type with respect to other proceedings governed by Part 2 even though they are not statutorily mandated. See, e.g., § 2.505(b) (21 CFR 2.505(b)), published below, and proposed § 2.13 (21 CFR 2.13). These requirements, however, are unsuitable for public hearings under Subpart E as these hearings concern broad issues of general applicability. See K. Davis, *Administrative Law Text*, § 13.05 (1972).

The Commissioner emphasizes that public hearings are provided in addition to other procedural rights and are not a compelled alternative to any other procedure prescribed by statute. The public hearing governed by Subpart E has been modeled on the legislative hearing. It is designed to afford members of the public an opportunity, not otherwise available, to present their views directly to responsible officials. The usefulness of this procedure in other agencies has recently been described in Stephen F. Williams' "Hybrid Rulemaking Under the Administrative Procedure Act: A Legal and Empirical Analysis," *University of Chicago Law Review*, 42:401-451, 1975. If officials responsible for agency decisions were excluded from conducting a public hearing, and, presumably, from participating in the subsequent decision, the Commissioner would often be deprived of the advice of those within the agency who are best informed about a particular matter. If separation of functions and similar requirements became applicable whenever FDA conducted any type of public hearing, the utility of the hearings would diminish. Accordingly, the Commissioner rejects the balance of this comment.

2. The Commissioner, on his initiative, is clarifying the circumstances under which persons attending a public hearing may ask questions. Section 2.403 permits only the presiding officer and other officials serving on a panel to ask questions of persons making presentations at the hearing. The Commissioner points out that it is within the presiding officer's authority in conducting the hearing to permit or invite those attending the hearing to submit written questions to him, which he and the other panel members may use in asking questions at the hearing. This process provides for orderly and meaningful dialogue on the agency action under consideration and is clearly permissible under the regulations as proposed.

REGULATORY HEARING BEFORE THE FOOD AND DRUG ADMINISTRATION (SUBPART F)

3. One comment, directed at §§ 2.510 and 2.511 (21 CFR 2.510 and 2.511), urged that those notified of an opportunity for regulatory hearing be given at least 10 days from receipt of the notice of opportunity for hearing to request a hearing, rather than a minimum of 3 days as proposed. The 3-day time period was described as "not adequate opportunity for a party to respond."

The Commissioner concludes that 3 days should generally be adequate for a decision to request a hearing. Extensive preparation is not needed for such a decision, and the request can be withdrawn if on further analysis a hearing proves unnecessary. The 3-day response time will facilitate a prompt resolution when expedition is needed. Furthermore, the 3-day time period is a minimum requirement; more time will be provided when it is feasible to do so and additional time is required for a person to assess adequately whether a hearing is desired.

4. Two comments objected to proposed § 2.511(e) (§ 2.511(f) in this final regulation) on the grounds that it does not comport with due process and establishes too broad a basis for permitting the Commissioner to take action prior to a hearing. The comments contended that no single standard should be established to govern summary action under the various statutes pursuant to which regulatory hearings may be held. Alternatively, the comments argued, if a single standard is to be retained, it should permit summary action only when there is an "imminent hazard to the public health." Moreover, it was claimed, persons affected should have an opportunity to comment in advance on whether action should be taken before a hearing and should be guaranteed a hearing within 5 days of the time the action is taken.

The Commissioner rejects the comments. Proposed § 2.511(e) (2.511(f) of this final regulation) permits summary action in the absence of a contrary statutory provision only when such action is necessary to protect the public health. This standard is an appropriate general basis for summary action; it requires that in order to justify summary action there must be a sufficient overriding public health interest at stake that could not be protected if the regulatory hearing were required to be held first. The comments asserting that no uniform standard is applicable failed to identify any statute or statutes administered by FDA that require unique criteria.

The comments are clearly wrong in claiming that the standard adopted permits summary action in virtually every instance. It is a strict standard that requires the agency to determine in each instance that action is necessary prior to the completion of the hearing process in order to protect the public health. This test is consistent with the requirements of due process, as discussed in the preamble to the proposed regulation.

The "imminent hazard" standard, which the comments advocated, would be inappropriate. The standard is not the one articulated by the courts as the constitutional test. As a formulation, it is susceptible to too great an emphasis on immediacy of injury rather than gravity of the risk or the number of persons exposed to the risk. The "imminent hazard" standard appears in sections 505(e) and 512(e) of the act (21 U.S.C. 355(e) and 360b(e)) and has been read restrictively.

The Commissioner has never had occasion to recommend summary action under these statutory provisions because the standard is strict and, because in real emergencies, manufacturers generally have not contested the agency's demand for prompt action.

The Commissioner also rejects the suggestion that an opportunity for comment be given before summary action is taken. The Commissioner intends to take summary action only when time does not permit delay for the informal procedures provided in Subpart F. An expedited, truncated procedure would delay action and serve little purpose. The Commissioner will provide a hearing as soon as possible after action is taken, but it is impractical to specify precisely the time for the hearing.

5. Acting on his initiative, the Commissioner is amending § 2.501 (21 CFR 2.501) by adding paragraph (a) (3) to make it clear that regulatory hearings are not available with respect to factory inspections, recalls, regulatory letters, and similar compliance activities related to the agency's law enforcement role. Enforcement matters were specifically excluded from the definition of administrative action in § 2.3 (21 CFR 2.3) of the procedural regulations as proposed. The term "regulatory action" as used in Subpart F incorporated this definition of administrative action and its exclusion of enforcement actions. Because the definitional section is not being issued at this time, the Commissioner believes it will forestall possible confusion to state this exemption expressly in Subpart F. The revision is being issued as a final regulation because it simply restates the meaning of the regulations as proposed.

6. The Commissioner, on his own initiative, is adding § 2.502 (21 CFR 2.502) to clarify the effect of a delegation of authority upon the procedures for regulatory hearings in Subpart F. The functions of the Commissioner under Subpart F, including issuance of the decision after the hearing pursuant to § 2.511(g), may be performed by any of the officials to whom he has delegated his authority with respect to the matter under Part 5 (21 CFR Part 5). This result was intended under Subpart F as proposed. Subpart F was headed Regulatory Hearing Before the Food and Drug Administration because the Commissioner's role had been delegated in several instances. Section 2.3 of the proposed procedural regulations also made this clear, but since that section is not being promulgated at this time, the Commissioner believes a specific clarification in Subpart F will avoid possible confusion.

7. The Commissioner has revised § 2.505(b) to provide that the Commissioner may designate a presiding officer subordinate to him even if the Commissioner has participated in the matter. Without this revision, the involvement of the Commissioner in the decision to initiate a Subpart F hearing, held at his discretion, might arguably have precluded the appointment of any of his subordinates to preside. In most instances, this

would have disqualified virtually all agency employees, a result not intended when Subpart F was proposed and a result not necessary to ensure a fair decision.

The revision is not limited in its applicability, however, solely to regulatory hearings held at the initiative of the Commissioner. The Commissioner's involvement in a Subpart F hearing, regardless of type, is ordinarily of a general supervisory nature and would not give rise to bias or prejudice. In formal evidentiary public hearings, the Administrative Procedure Act (5 U.S.C. 554) only precludes the presiding officer from being subordinate to those engaged in the performance of investigative or prosecuting functions, and even this restriction is inapplicable to the agency and those who constitute the agency. The Supreme Court has decided that the combination of investigative and adjudicative functions does not necessarily violate due process. *Withrow v. Larkin*, 421 U.S. 35 (1975).

Nevertheless, to avoid any questions about the fairness of the hearing, the Commissioner intends, in the case of regulatory hearings held pursuant to regulations listed in § 2.500(b) (21 CFR 2.500(b)), to arrange matters, whenever possible, so that it will not be necessary to appoint a presiding officer subordinate to the Commissioner when the Commissioner has had any participation in the action. There are various arrangements to achieve this result. For example, the decision to initiate the action leading to a regulatory hearing might be made by a subordinate official without any review by the Commissioner. When the Commissioner's functions under Subpart F have been delegated to another official, such as a Bureau Director, there will usually be many officials within the agency who are not subordinate to the delegate and who can be designated as the presiding officer in case the delegate has participated in the action, e.g., an official in the Office of the Commissioner or in another Bureau. The Commissioner believes, therefore, that it will rarely be necessary, in a regulatory hearing held pursuant to regulation, to appoint a presiding officer subordinate to the Commissioner or his delegate when the Commissioner or the delegate has had some prior participation in the action; such a designation will be made only after a finding that there is no other feasible way to conduct the proceeding and to safeguard the public interest.

8. Also on his initiative, the Commissioner is amending § 2.512(a) to provide that regulatory hearings be made public except when specified conditions are met. As proposed, § 2.512(a) provided that regulatory hearings would be closed except when the party seeking the hearing requested that they be public. This was done primarily because some of the matters on which regulatory hearings are held concern allegations of improprieties by individuals and a public hearing on allegations that prove unsubstantiated might constitute an invasion of privacy.

Closed hearings would also protect against disclosure of trade secrets and safeguard open investigatory files.

The Commissioner has reevaluated this matter and concludes that not all regulatory hearings will present these grounds for closing the hearing. Hearings should be closed to safeguard the privacy of a participant in a hearing or to protect trade secrets only if the party concerned desires such protection. The Commissioner does not believe that private hearings are necessary to ensure that the hearings are conducted in an informal manner. Furthermore, making regulatory hearings open to the public is beneficial because it promotes public understanding and accountability. Accordingly, under the revised regulation, all hearings will be public unless specified grounds exist. These grounds relate to considerations recognized under the Freedom of Information Act as being sufficient to justify nondisclosure of records to the public. The Commissioner believes it is appropriate to close hearings involving serious allegations of misconduct by an individual in order to protect his privacy. In personnel actions affecting federal employees, hearings are generally closed to the public in the interest of safeguarding the privacy of the individual in accordance with 5 CFR 772.307. Hearings may also be closed on the initiative of the Commissioner to protect the privacy of someone not a participant, e.g., the medical records of a patient whose treatment is at issue in a hearing concerning an investigational new drug.

A correction has been made in § 2.512 (a) (3) to cross reference to § 2.22(a) rather than § 2.21(a) as proposed.

9. Acting on his initiative, the Commissioner is adding a new § 2.511(e) to ensure that, when feasible, each participant in a regulatory hearing receives advance notice of written material to be relied on by the other side and a copy, if needed. If it is not feasible to do so, additional time after the hearing is to be provided, if time permits, for the submission of comments on the material. The requirement would apply to both FDA and the private party requesting the hearing.

10. The Commissioner, on his own initiative, is adding a new § 2.521(f) to clarify the point that the presiding officer at a regulatory hearing shall prepare a recommended decision unless the Commissioner specifically directs him to prepare only a report of the hearing. It is anticipated that in all but unusual instances the presiding officer will prepare a recommended decision. This will assure parties to a regulatory hearing that the person who actually hears witnesses and listens to arguments will play an influential role in the agency's ultimate decision.

11. New paragraph (f) of § 2.512 also requires the presiding officer to include, as part of his report of the hearings, findings with respect to the credibility of witnesses, other than expert witnesses, whenever credibility is a material issue. In many, if not most, regulatory hear-

ings the credibility of witnesses is not likely to be material. The issues ordinarily will involve the interpretation of scientific data and the weighing of scientific findings. Where, however, the agency proposes to take action on the basis of contested historical facts, such as whether a clinical investigator obtained the informed consent of subjects or falsified records, witness credibility may be critical. It is appropriate in such instances that the presiding officer, who will have had an opportunity to observe the witnesses and evaluate their credibility, be required to make findings on this issue.

12. Questions have arisen as to the accuracy of the statement made in the preamble to the proposed regulations in the FEDERAL REGISTER of September 3, 1975 (40 FR 40713) that "[t]he Food and Drug Administration would have the burden of proof in any hearing conducted pursuant to the specific provisions listed in § 2.500(b)." The Commissioner advises that the burden of proof in any hearing conducted under those provisions will be determined in accordance with the statutory requirements governing the administrative action at issue. The Food and Drug Administration will not always have the burden of proof on the underlying action that is the subject of the hearing. For example, in a regulatory hearing pursuant to the regulation listed in § 2.500 (b) (23), the burden of proof will be allocated in accordance with 42 U.S.C. 263g. In any regulatory hearing, however, regardless of how the burden of proof is allocated, FDA will have to state its reasons for proposing or taking, or refraining from taking, the action that is the subject of the hearing and will have to provide sufficient information to support its action under the applicable law.

13. The Commissioner is adding a new § 2.512(g) that makes explicit the presiding officer's authority to conduct a regulatory hearing in any suitable manner that is not in conflict with law or these regulations. The presiding officer shall have the power and duty to enforce these regulations, make such rulings and take such actions as are necessary to run the hearing fairly, expeditiously, and impartially, and to maintain order at the hearing.

The Commissioner emphasizes that regulatory hearings pursuant to Subpart F are intended to be informal hearings. While § 2.512 provides for cross-examination, the format for conducting cross-examination need not be, and should not ordinarily be, the adversarial format used in courtroom proceedings. The presiding officer may adopt any fair arrangement that provides participants an opportunity to ask relevant questions. He may, for example, provide that all questioning occur after witnesses have made their presentations, or provide for submission in writing of the questions to be asked at a hearing. The technical rules of evidence are not applicable, and the presiding officer should liberally permit the submission of relevant information. However,

information does not have to be received if it is not germane to any matter at issue in the hearing nor need a hearing be provided if the participant has fully conceded the existence of circumstances that justify regulatory action. For example, if a hearing is available solely on whether a regulation has been violated, a participant who conceded that a violation occurred need not be provided a regulatory hearing on a contention that the underlying regulation is invalid or unwise.

14. Section 2.513 has been revised to clarify that the administrative records of the regulatory hearing and the administrative proceeding include all the material contemplated by Subpart F. A correction will be made in § 2.11(f) (21 CFR 2.11(f)) to refer to § 2.513(c) (21 CFR 2.513(c)) rather than § 2.513(a).

STANDARDS OF CONDUCT AND CONFLICT OF INTEREST (SUBPART G)

15. No comments were received on Subpart G, and it will go into effect as proposed, except for a correction in § 2.612 (21 CFR 2.612) to cross-reference § 2.20(b) (21 CFR 2.20(b)) rather than to § 2.19(b) (21 CFR 2.19(b)).

CONFORMING CHANGES IN OTHER FOOD AND DRUG ADMINISTRATION REGULATIONS

16. The proposed regulations on administrative practices and procedures contained proposed conforming changes in numerous existing regulations of the agency. The Commissioner is promulgating at this time the regulations in which conforming changes were made relating to Subpart F. No comments were received on these regulations, and they are being issued substantially as proposed.

17. A change has been made in paragraph (c) of § 312.1 (21 CFR 312.1) to allow officials in addition to the Bureau Director to send out notices and provide an informal opportunity for an explanation. This revision would allow the Bureau Director to be uninvolved in the initial steps of a proceeding. A similar change has been made in paragraph (c) of § 511.1 (21 CFR 511.1(c)).

18. A correction is being made in paragraph (d) of § 312.1 to reflect the fact that, under 21 CFR 5.39, several officers within the Bureau of Drugs are authorized to issue the notices referred to in that paragraph. The reference to a regulatory hearing before the Commissioner in paragraph (d) of § 312.1 has also been corrected to refer instead to a regulatory hearing before the Food and Drug Administration.

19. A revision of § 312.1(g) was published in the FEDERAL REGISTER of August 13, 1975 (40 FR 33971). The Commissioner concludes that no further revision is necessary. Therefore, the Commissioner is withdrawing proposed revision of § 312.1(g) that appeared in the FEDERAL REGISTER of September 3, 1975.

20. Certain of the regulations in Subparts E, F, and G contain references to other sections of the proposed procedural regulations that have not yet been published in final form. For the purpose of maintaining the substantive integrity of

Subparts E, F, and G as adopted, all referenced sections and subparts of the proposed procedural regulations not adopted in final form are being adopted as proposed as interim procedures. Should any of these cross-referenced sections be omitted or renumbered when other subparts are finally published, or cease to be germane, appropriate modifications in the provisions of Subparts E, F, and G will be made at that time.

21. On his own initiative, the Commissioner is clarifying the obligation of FDA to observe the proposed regulations on administrative practices and procedures, published in the FEDERAL REGISTER of September 3, 1975, before their adoption as final regulations. This clarification is primarily relevant to the obligation of FDA to observe proposed new Subparts A and D, and proposed revised Subpart B, which are the only proposed subparts that have not yet been promulgated as final regulations.

In the preamble to the September 1975 proposal, the Commissioner stated his view that the agency is permitted to follow procedures contained in the proposed regulations that it had been observing or could have observed without regulations. Thus, it has always been clear that FDA had the option to observe some of the procedures set forth in the proposed regulations. Questions have arisen, however, about whether FDA is required to observe those proposed procedures. The Commissioner advises that FDA employees are expected to continue to follow those procedures contained in the proposed regulations which were already established agency practice when the regulations were initially promulgated in the FEDERAL REGISTER of May 27, 1975. Procedures found in the proposed regulations which were not established agency practice on that date are not required to be observed by FDA employees; in such cases, the proposed regulations may be regarded as a statement of the Commissioner's preliminary non-binding views of what would be desirable practice. This clarification in no way alters the Commissioner's position that, before the final adoption of the proposed regulations, the agency will not implement any proposed procedure that would alter the existing procedural rights and interests of persons outside the agency if the procedure could not have been observed without a regulation. The decision whether a particular procedure may be followed will continue to require the exercise of judgment of those agency officials immediately involved.

Therefore, pursuant to provisions of the Federal Food, Drug, and Cosmetic Act, (Sec. 201 et seq., 52 Stat. 1040; 21 U.S.C. 321 et seq.), the Public Health Service Act (sec. 1 et seq., 58 Stat. 682, as amended; 42 U.S.C. 201 et seq.), the Comprehensive Drug Abuse Prevention and Control Act of 1970 (sec. 4, 84 Stat. 1241; 42 U.S.C. 257a), the Controlled Substances Act (sec. 301 et seq., 84 Stat. 1253; 21 U.S.C. 821 et seq.), the Federal Meat Inspection Act (sec. 409(b), 81 Stat.

600; 21 U.S.C. 679(b)), the Poultry Products Inspection Act (sec. 24(b), 81 Stat. 807; 21 U.S.C. 467f(b)), the Egg Products Inspection Act (sec. 2 et seq., 84 Stat. 1620; 21 U.S.C. 1031 et seq.), the Federal Import Milk Act (44 Stat. 1101; 21 U.S.C. 141 et seq.), the Tea Importation Act (21 U.S.C. 41 et seq.), the Federal Caustic Poison Act (44 Stat. 1406; 15 U.S.C. 401-411 notes), the Fair Packaging and Labeling Act (80 Stat. 1296; 15 U.S.C. 1451 et seq.), and all other statutory authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (24262)), the Commissioner amends Chapter I of Title 21 of the Code of Federal Regulations as follows:

PART 2—ADMINISTRATIVE PRACTICES AND PROCEDURES

1. By amending Part 2 to add Subparts E, F, and G to read as follows:

Subpart E—Public Hearing Before the Commissioner

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| Sec. | |
| 2.400 | Scope of subpart. |
| 2.401 | Notice of a public hearing before the Commissioner. |
| 2.402 | Notice of appearance; schedule for hearing. |
| 2.403 | Conduct of a public hearing before the Commissioner. |
| 2.404 | Written submission pertaining to a public hearing before the Commissioner. |
| 2.405 | Administrative record of a public hearing before the Commissioner. |
| 2.406 | Examination of administrative record. |

Subpart F—Regulatory Hearing Before the Food and Drug Administration

- | | |
|-------|---|
| 2.500 | Scope of subpart. |
| 2.501 | Inapplicability and limited applicability. |
| 2.502 | Commissioner. |
| 2.505 | Presiding officer. |
| 2.506 | Right to counsel. |
| 2.510 | Regulatory hearing on the initiative of the Commissioner. |
| 2.511 | Regulatory hearing pursuant to regulation. |
| 2.512 | Hearing procedure. |
| 2.513 | Administrative record of a regulatory hearing. |
| 2.514 | Examination of administrative record. |
| 2.515 | Record for administrative decision. |
| 2.516 | Reconsideration and stay of action. |
| 2.520 | Judicial review. |

Subpart G—Standards of Conduct and Conflicts of Interest

- | | |
|-------|---|
| 2.600 | Scope of subpart. |
| 2.610 | Reference to Department regulations. |
| 2.611 | Code of ethics for government service. |
| 2.612 | Food and Drug Administration Conflict of Interest Review Board. |
| 2.613 | Duty to report violation. |
| 2.620 | Permanent disqualification of former employees. |
| 2.621 | Temporary disqualification of former employees. |

AUTHORITY: The Federal Food, Drug, and Cosmetic Act, (Sec. 201 et seq., 52 Stat. 1040; 21 U.S.C. 321 et seq.), the Public Health Service Act (sec. 1 et seq., 58 Stat. 682, as amended; 42 U.S.C. 201 et seq.), the Comprehensive Drug Abuse Prevention and Control Act of 1970 (sec. 4, 84 Stat. 1241; 42 U.S.C. 257a), the Controlled Substances Act (sec. 301 et seq., 84 Stat. 1253; 21 U.S.C. 821 et seq.), the Federal Meat Inspection Act (sec. 409(b), 81 Stat. 600; 21 U.S.C. 679(b)), the Poultry Products Inspection Act (sec.

24(b)), 82 Stat. 807; 21 U.S.C. 467f(b)), the Egg Products Inspection Act (sec. 2 et seq., 84 Stat. 1620; 21 U.S.C. 1031 et seq.), the Federal Import Milk Act (44 Stat. 1101; 21 U.S.C. 141 et seq.), the Tea Importation Act (21 U.S.C. 41 et seq.), the Federal Caustic Poison Act (44 Stat. 1406; 15 U.S.C. 401-411 notes), the Fair Packaging and Labeling Act (80 Stat. 1296; 15 U.S.C. 1451 et seq.), and all other statutory authority delegated to him (21 CFR 5.1) (recodification published in the FEDERAL REGISTER of June 15, 1976 (24262)).

Subpart E—Public Hearing Before the Commissioner

§ 2.400 Scope of subpart.

Subpart E governs the practices and procedures applicable whenever:

(a) The Commissioner concludes, in his discretion, that it is in the public interest to permit interested persons to present data, information, and views at a public hearing on any particular matter, or class of matters, of importance pending before the Food and Drug Administration.

(b) Pursuant to specific provisions in other sections of this chapter, a matter pending before the Food and Drug Administration is subject to a public hearing before the Commissioner. Such specific provisions are in § 330.10(a)(8) of this chapter relating to review of the safety, effectiveness, and labeling of over-the-counter drugs.

(c) A person who has right to an opportunity for a formal evidentiary public hearing under Subpart B of this Part waives that opportunity and in lieu thereof requests pursuant to § 2.117 a public hearing before the Commissioner pursuant to this Subpart E, and the Commissioner, in his discretion, accepts this request.

§ 2.401 Notice of a public hearing before the Commissioner.

(a) If the Commissioner determines that a public hearing before the Commissioner should be held on any matter, he shall publish in the FEDERAL REGISTER a notice of hearing setting forth the following information:

(1) If the hearing is pursuant to § 2.400 (a) or (b):

(i) The purpose of the hearing and the subject matter to be considered. If any written document is to be the subject matter of the hearing, it shall be published as part of the notice, or reference shall be made to it if it has already been published in the FEDERAL REGISTER, or the notice shall state that the document is available from the Hearing Clerk or an agency employee designated in the notice.

(ii) The time, date, and place of the hearing, or a statement that such information shall be contained in a subsequent notice published in the FEDERAL REGISTER.

(2) If the hearing is in lieu of a formal evidentiary hearing pursuant to § 2.400 (c), all of the information described in § 2.117(e) of this Part.

(b) The scope of the hearing shall be determined by the notice of hearing and any specific provisions in other sections of this chapter. If any such specific pro-

vision, e.g., § 330.10(a)(10) of this chapter, limits a hearing to review of an existing administrative record, data and information not already included in the record shall not be submitted or considered at the hearing.

§ 2.402 Notice of appearance: schedule for hearing.

(a) The notice of hearing shall provide interested persons an opportunity to file a written notice of appearance with the Hearing Clerk within a specified period of time in the form and pursuant to the requirements specified in § 2.131. If the public interest requires that such a hearing be conducted within a short period of time, the notice may name a specific Food and Drug Administration employee, together with his telephone number, to whom an oral notice of appearance shall be given. A written or oral notice of appearance shall be received by the Hearing Clerk, or other designated person, by the close of business of the day specified in the notice.

(b) A notice of appearance shall state the approximate amount of time requested by the person for his presentation. Individuals and organizations with common interests are urged to consolidate or coordinate their presentations.

(c) Promptly after expiration of the time specified in the notice for the filing of a notice of appearance, the Commissioner shall determine the amount of time allocated to each such person for his oral presentation and the time that oral presentation is scheduled to begin. Each such person shall be so informed in writing or, if the time prior to the hearing is short, by telephone. The Commissioner may require joint presentations by persons with common interests.

(d) The Commissioner shall prepare a hearing schedule showing the persons making oral presentations and the time allotted to each such person, which shall be filed with the Hearing Clerk and mailed or telephoned to each such person and, if time permits, published in the FEDERAL REGISTER.

§ 2.403 Conduct of a public hearing before the Commissioner.

(a) The Commissioner or his designee shall preside at the hearing, except where specific provisions in other sections of this chapter require that the Commissioner preside personally. The presiding officer may be accompanied by other Food and Drug Administration employees or other Federal government employees designated by the Commissioner, who may serve as a panel in conducting the hearing.

(b) The hearing shall be transcribed.

(c) Each person may use his allotted time in whatever way he wishes, consistent with a reasonable and orderly hearing. A person may be accompanied by any number of additional persons, and may present any written data, information, or views for inclusion in the record of the hearing, subject to the requirements of § 2.404.

(d) If a person is not present at the time, specified for his presentation, the persons following will appear in order. An attempt will be made to hear any such person at the conclusion of the hearing. Any other interested persons attending the hearing who did not request an opportunity to make an oral presentation shall be given an opportunity to make an oral presentation at the conclusion of the hearing, in the discretion of the presiding officer, to the extent that time permits.

(e) The presiding officer and any other persons serving with him as a panel may question any person during or at the conclusion of his presentation. No other person attending the hearing may question a person making a presentation. The presiding officer may allot additional time to any person when he concludes that it is in the public interest, but may not reduce the time allotted for any person without their consent.

(f) The hearing shall be informal in nature, and the rules of evidence shall not apply. No motions or objections relating to the admissibility of data, information, and views shall be made or considered, but other participants may comment upon or rebut all such data, information, and views. No participant may interrupt the presentation of another participant at any hearing for any reason.

§ 2.404 Written submissions pertaining to a public hearing before the Commissioner.

Any interested person may submit data, information, or views on the matter that is the subject of the hearing in writing to the Hearing Clerk, pursuant to § 2.5. The record of the hearing shall remain open for 15 days after the hearing is held for any additional written submissions, unless the notice of the hearing specifies otherwise or the presiding officer rules otherwise at the hearing.

§ 2.405 Administrative record of a public hearing before the Commissioner.

(a) The administrative record of a public hearing before the Commissioner shall consist of the following:

(1) All relevant FEDERAL REGISTER notices, including any documents to which they refer.

(2) All written submissions pursuant to § 2.404.

(3) The transcript of the oral hearing.

(b) The record of the administrative proceeding shall be closed at the time specified in § 2.404.

§ 2.406 Examination of administrative record.

The availability for public examination and copying of each document which is a part of the administrative record of the hearing shall be governed by the provisions of § 2.5(j). Each document which is available for public examination or copying shall be placed on public display in the office of the Hearing Clerk promptly upon receipt in that office.

Subpart F—Regulatory Hearing Before the Food and Drug Administration

§ 2.500 Scope of subpart.

Subpart F governs the practices and procedures applicable whenever:

(a) The Commissioner is considering any regulatory action, including a refusal to act, and concludes, in his discretion, on his own initiative or at the suggestion of any person, to offer an opportunity for a regulatory hearing to obtain additional information before he makes a decision or takes action.

(b) Any provision in any regulation of this chapter provides any person with an opportunity for a hearing with respect to any regulatory action, including proposed action, and such regulation either specifically provides an opportunity for a regulatory hearing pursuant to this subpart or provides an opportunity for a hearing but does not specify the procedures for such hearing and such procedures are not specified in other provisions of this chapter. Such sections are:

(1) Section 202.1(j)(5), relating to approval of prescription drug advertisements.

(2) Section 8.27(b), relating to refusal to certify a batch of a color additive.

(3) Section 8.28(b), relating to suspension of certification service for a color additive.

(4) Section 8.33(a), relating to use of food containing a new color additive.

(5) Section 10.5(l), relating to a temporary permit to vary from a food standard.

(6) Section 121.75(b), relating to use of food containing an investigational food additive.

(7) Section 511.1(b)(5), relating to use of food containing an investigational new animal drug.

(8) Section 511.1(c)(1), relating to termination of an INAD for an investigator.

(9) Section 511.1(c)(4) and (d), relating to termination of an INAD for a sponsor.

(10) Section 514.210, relating to suspension of certification service for a veterinary antibiotic drug.

(11) Section 312.1(c)(1), relating to whether an investigator is entitled to receive investigational new drugs.

(12) Sections 312.1(c)(4) and (d), relating to termination of an IND for a sponsor.

(13) Section 312.9(c), relating to termination of an IND for tests in vitro and in laboratory research animals for a sponsor.

(14) Section 429.50, relating to suspension of certification service for an insulin drug.

(15) Section 431.52, relating to suspension of certification service for an antibiotic drug.

(16) Section 433.2(d), relating to exemption from certification for an antibiotic drug.

(17) Section 433.12(b)(5), relating to an exemption from labeling for a certifiable antibiotic drug.

(18) Section 433.13(b), relating to an exemption from manufacturing use for a certifiable antibiotic drug.

(19) Section 433.14(b), relating to an exemption for storage for a certifiable antibiotic drug.

(20) Section 433.15(b), relating to an exemption for processing for a certifiable antibiotic drug.

(21) Section 433.16(b), relating to an exemption for repacking for a certifiable antibiotic drug.

(22) Section 1003.11(a)(3), relating to the failure of an electronic product to comply with an applicable standard or to a defect in an electronic product.

(23) Section 1003.31(d), relating to denial of an exemption from notification requirements for an electronic product which fails to comply with an applicable standard or has a defect.

(24) Section 1004.6, relating to plan for repurchase, repair, or replacement of an electronic product.

(25) Section 1210.30, relating to denial, suspension, or revocation of a permit under the Federal Import Milk Act.

(26) Any other provision in the regulations in this chapter under which a party who is adversely affected by regulatory action is entitled to an opportunity for a hearing, and no other procedural provisions in this part are by regulation applicable to such hearing.

§ 2.501 Inapplicability and limited applicability.

(a) The provisions of this subpart are inapplicable to the following:

(1) Informal presentation of views before reporting a criminal violation pursuant to section 305 of the act and § 1.6 of this chapter, and section 5 of the Federal Import Milk Act and § 1210.31 of this chapter.

(2) A hearing with respect to a refusal of admission of a food, drug, device, or cosmetic pursuant to section 801(a) of the act and § 1.318 of this chapter, or of an electronic product pursuant to section 360(a) of the Public Health Service Act and § 1005.20 of this chapter.

(3) Factory inspections, recalls, regulatory letters, and similar compliance activities related to law enforcement.

(b) The provisions of this subpart are applicable to hearings conducted pursuant to specific procedural provisions in other sections of this chapter to the extent that the provisions of this subpart are in addition to the provisions in such other sections and not in conflict with them, e.g., the right to counsel, public notice of the hearing, reconsideration and stay, and judicial review. Such other sections include Subpart A of Part 90 of this chapter, relating to emergency permit control.

§ 2.502 Commissioner.

Whenever the Commissioner has delegated authority under Part 5 of this chapter with respect to a matter for which a regulatory hearing is available under this subpart, the functions of the Commissioner under this subpart may be performed by any of the officials to whom the authority has been delegated.

§ 2.505 Presiding officer.

(a) Any Food and Drug Administration employee to whom the Commissioner delegates such authority, or any other agency employee designated by an employee to whom such authority is delegated, may serve as the presiding officer at and conduct a regulatory hearing pursuant to the provisions of this subpart.

(b) The presiding officer shall be free from bias or prejudice and shall not have participated in the investigation or action that is the subject of the hearing or be subordinate to a person, other than the Commissioner, who has participated in such investigation or action.

(c) A different presiding officer may be substituted for the one originally designated pursuant to §§ 2.510 and 2.511 without notice to the parties.

§ 2.506 Right to counsel.

Any party to a hearing pursuant to this subpart shall have the right at all times to be advised and accompanied by counsel.

§ 2.510 Regulatory hearing on the initiative of the Commissioner.

(a) A regulatory hearing on the initiative of the Commissioner pursuant to § 2.500(a) shall be initiated by a notice of opportunity for hearing from the Food and Drug Administration.

(1) Such notice shall be sent by registered mail, telegram, telex, personal delivery, or any other mode of written communication.

(2) Such notice shall specify the facts and the action that are the subject of the opportunity for a hearing.

(3) Such notice shall state that the notice of opportunity for hearing and the hearing are governed by the provisions of this subpart.

(4) Such notice shall state the time within which a hearing shall be requested, shall be signed by the Food and Drug Administration employee who will be the presiding officer in the event a hearing is held, and shall state the name, address, and telephone number of the presiding officer.

(b) Any person offered an opportunity for a hearing shall have the amount of time specified in the notice, which shall be not less than 3 working days after receipt of such notice, within which to request a hearing. Such request may be filed by registered mail, telegram, telex, personal delivery, or any other mode of written communication, addressed to the presiding officer. If no response is filed within such time, the offer shall be deemed to have been refused and no hearing shall be held.

(c) If a hearing is requested, such hearing shall take place at a time and location agreed upon by the party requesting the hearing and the presiding officer or, if such agreement cannot be reached, at a reasonable time and location designated by the presiding officer.

(d) A notice of opportunity for hearing under this section shall not operate to delay or stay any administrative action, including enforcement action of any kind, by the agency unless the Commis-

sioner, in his discretion, determines that delay or a stay is in the public interest.

§ 2.511 Regulatory hearing pursuant to regulation.

(a) A regulatory hearing pursuant to a regulation listed in § 2.500(b) shall be initiated by a notice of opportunity for hearing from the Food and Drug Administration.

(1) Such notice shall be sent by registered mail, telegram, telex, personal delivery, or any other mode of written communication.

(2) Such notice shall specify the facts and the action that are the subject of the opportunity for hearing, and shall state whether the action is or is not being taken pending the hearing pursuant to paragraph (f) of this section.

(3) Such notice shall state that the notice of opportunity for hearing and the hearing are governed by the provisions of this subpart.

(4) Such notice shall state the time within which a hearing shall be requested, and shall state the name, address, and telephone number of the Food and Drug Administration employee to whom any request for hearing shall be addressed.

(b) Any person offered an opportunity for hearing shall have the amount of time specified in the notice, which shall be not less than 3 working days after receipt of such notice, within which to request a hearing. Such request may be filed by registered mail, telegram, telex, personal delivery, or any other mode of written communication, addressed to the presiding officer. If no response is filed within such time, the offer shall be deemed to have been refused and no hearing shall be held.

(c) If a hearing is requested, the Commissioner shall designate a presiding officer and such hearing shall take place at a time and location agreed upon by the party requesting the hearing and the presiding officer or, if such agreement cannot be reached, at a reasonable time and location designated by the presiding officer. The hearing may not be required to be held at a time less than two working days subsequent to receipt of the request for hearing.

(d) Before the hearing, the Food and Drug Administration shall give to the party requesting the hearing reasonable notice of the matters to be considered at the hearing, including a comprehensive statement of the basis for the decision or action taken or proposed that is the subject of the hearing and a general summary of the information that will be presented by the Food and Drug Administration at the hearing in support of such decision or action. Such information may be given orally or in writing, in the discretion of the Commissioner.

(e) The Food and Drug Administration and the party requesting the hearing shall, if feasible, at least 1 day before the hearing provide to each other written notice of any published articles or written information to be presented at or relied on at the hearing. A copy shall also be provided in advance if the

other participant could not reasonably be expected to have or able to obtain a copy. If written notice or a copy is not so provided, the presiding officer shall, if time permits, allow the party who did not receive the notice or copy additional time after the close of the hearing to make a submission with respect to the article or information.

(f) The Commissioner may take such action pending a hearing pursuant to this section as he concludes is necessary to protect the public health, except where expressly prohibited by statute or regulation. A hearing to consider action already taken, and not stayed by the Commissioner, shall be conducted on an expedited basis.

(g) On the basis of the administrative record of the hearing specified in § 2.513 (a), the Commissioner shall issue a written decision stating the reasons for his administrative action and the basis in the record.

§ 2.512 Hearing procedure.

(a) A regulatory hearing shall be a public hearing, except when the Commissioner determines that all or part of a hearing should be closed in order to prevent a clearly unwarranted invasion of personal privacy; to prevent the disclosure of a trade secret or confidential commercial or financial information that is not available for public disclosure pursuant to § 4.61 of this chapter; or to protect investigatory records compiled for law enforcement purposes that are not available for public disclosure pursuant to § 4.64 of this chapter.

(1) The Commissioner may determine that a regulatory hearing shall be closed either on his initiative or pursuant to a request by the party asking for a regulatory hearing, at the time he requests such hearing.

(2) If the hearing is a private hearing, no persons other than the party requesting the hearing, his counsel and witnesses, and an employee or consultant or other person subject to a commercial arrangement as defined in § 4.81(a) of this chapter, and Food and Drug Administration representatives, shall be entitled to attend.

(3) If the hearing is a public hearing, it shall be announced on the public calendar described in § 2.22(a) whenever feasible, and any interested person who attends the hearing may participate to the extent of presenting relevant information.

(b) A regulatory hearing shall be conducted by a presiding officer. Employees of the Food and Drug Administration shall first give a full and complete statement of the action which is the subject of the hearing, together with the information and reasons supporting it, and may present any oral or written information relevant to the hearing. The party requesting the hearing shall then have the right to present any oral or written information relevant to the hearing. All parties may confront and conduct reasonable cross-examination of any person (except for the presiding officer and counsel for the parties) who makes any statement with respect to the matter at the hearing.

(c) The hearing shall be informal in nature, and the rules of evidence shall not apply. No motions or objections relating to the admissibility of data, information, and views shall be made or considered, but any other party may comment upon or rebut all such data, information, and views.

(d) The Commissioner may, in his discretion, order the hearing to be transcribed. The party requesting the hearing shall have the right to have the hearing transcribed, at his expense, in which case a copy of such transcription shall be furnished to the Food and Drug Administration and included with the presiding officer's report of the hearing. Any transcription of the hearing shall be included with the presiding officer's report of the hearing.

(e) The presiding officer shall prepare a written report of the hearing. All written material presented at the hearing shall be attached to the report. Whenever time permits, the parties to the hearing shall be given the opportunity to review and offer corrections to the presiding officer's report of the hearing.

(f) The presiding officer shall include as part of his report of the hearing a finding on the credibility of witnesses (other than expert witnesses) whenever credibility is a material issue, and shall include a recommended decision, with a statement of reasons, unless the Commissioner directs otherwise.

(g) The presiding officer shall have the power to take such actions and make such rulings as are necessary or appropriate to maintain order and to conduct a fair, expeditious, and impartial hearing, and to enforce the requirements of this subpart pertaining to the conduct of hearings. The presiding officer may direct that the hearing shall be conducted in any suitable manner permitted by law and these regulations.

§ 2.513 Administrative record of a regulatory hearing.

(a) The record of the regulatory hearing shall consist of the following:

(1) The notice of opportunity for hearing and the response thereto.

(2) All written data, information, and views submitted to the presiding officer at the hearing or thereafter if specifically permitted by the presiding officer.

(3) Any transcript of the hearing.

(4) The presiding officer's report of the hearing and corrections of the report submitted pursuant to § 2.512(e).

(b) The record of the regulatory hearing shall be closed with respect to the submission of data, information, and views, at the close of the hearing, unless the presiding officer specifically permits additional time for a further submission.

(c) The record of the administrative proceeding shall consist of the record of the regulatory hearing, the Commissioner's decision referred to in § 2.511(g), and the other data and information referred to in § 2.515(a).

§ 2.514 Examination of administrative record.

The availability for public disclosure of each document which is a part of the administrative record of a regulatory hearing shall be governed by the provisions of Part 4 of this chapter and the regulations referenced therein.

§ 2.515 Record for administrative decision.

(a) With respect to any matter which is subject to an opportunity for a hearing pursuant to §§ 2.500(a) and 2.510, the administrative record of the hearing specified in § 2.513(a) shall be considered by the Commissioner together with all other relevant data and information available to the Food and Drug Administration in determining whether regulatory action should be taken and, if so, what form of regulatory action should be taken.

(b) With respect to any matter which is subject to an opportunity for a hearing pursuant to §§ 2.500(b) and 2.511, the administrative record of the hearing specified in § 2.513(a) shall constitute the exclusive record for decision.

§ 2.516 Reconsideration and stay of action.

Following any final administrative action which is the subject of a hearing pursuant to this subpart or any provision referenced in § 2.501(b), any party may petition the Commissioner for reconsideration of any part or all of such decision or action pursuant to § 2.8 or may petition for a stay of such decision or action pursuant to § 2.9.

§ 2.520 Judicial review.

The availability of judicial review with respect to any regulatory action which is the subject of a hearing pursuant to this subpart shall be governed by the provisions of § 2.11.

Subpart G—Standards of Conduct and Conflicts of Interest

§ 2.600 Scope of subpart.

Subpart G governs the standards of conduct for, and establishes regulations to prevent conflicts of interest by, all Food and Drug Administration employees.

§ 2.610 Reference to Department regulations.

(a) The provisions of 45 CFR Part 73, establishing standards of conduct for all Department employees, are fully applicable to all Food and Drug Administration employees, except that such regulations shall be applicable to special government employees, i.e., consultants to the Food and Drug Administration, only to the extent stated in Subpart L of 45 CFR Part 73.

(b) The provisions of 45 CFR Part 73a supplement the Department standards of conduct and apply only to Food and Drug Administration employees except special government employees.

§ 2.611 Code of ethics for government service.

The following code of ethics, adopted by Congress on July 11, 1958, shall apply to all Food and Drug Administration employees:

CODE OF ETHICS FOR GOVERNMENT SERVICE

Any person in Government service should:

1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

3. Give a full day's labor for a full day's pay; giving to the performance of his duties his earnest effort and best thought.

4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not; and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

9. Expose corruption wherever discovered.
10. Uphold these principles, ever conscious that public office is a public trust.

§ 2.612 Food and Drug Administration Conflict of Interest Review Board.

(a) The Commissioner shall establish a permanent five-member Conflict of Interest Review Board, which shall review and make recommendations to the Commissioner on all specific or policy matters relating to conflicts of interest arising within the Food and Drug Administration that are forwarded to it by (1) the Associate Commissioner for Administration or (2) anyone who is the subject of an adverse determination by the Associate Commissioner for Administration on any matter arising under the conflict of interest laws, except a determination of an apparent violation of law. The Director, Division of Personnel Management, Office of the Associate Commissioner for Administration, shall serve as executive secretary of the Review Board.

(b) It shall be the responsibility of every Food and Drug Administration employee with whom any specific or policy issue relating to conflicts of interest is raised, or who otherwise wishes to have any such matter resolved, to forward the matter to the Associate Commissioner for Administration for resolution, except that reporting of apparent violations of law are governed by § 2.613.

(c) All general policy relating to conflicts of interest shall be established in guidelines pursuant to the provisions of § 2.20(b) and whenever feasible shall be

incorporated in regulations in this subpart.

(d) All decisions relating to specific individuals shall be placed in a public file established for this purpose by the Public Records and Documents Center, e.g., a determination that a consultant may serve on an advisory committee with specific limitations or with public disclosure of stock holdings, except that such determination shall be written in a way that does not identify the individual in the following situations:

(1) A determination that an employee must dispose of prohibited financial interests or refrain from incompatible outside activities in accordance with established Department or agency regulations.

(2) A determination that a proposed consultant is not eligible for employment by the agency.

(3) A determination that public disclosure of any information would constitute an unwarranted invasion of personal privacy in violation of § 4.63 of this chapter.

§ 2.613 Duty to report violations.

(a) The Policy Management Staff, Associate Commissioner for Administration, is responsible for obtaining factual information for the Food and Drug Administration on any matter relating to allegations of misconduct, impropriety, conflict of interest, or other violations of Federal statutes by agency personnel.

(b) Any Food and Drug Administration employee who has factual information showing or who otherwise believes that any present or former Food and Drug Administration employee has violated or is violating any provision of this subpart or of 45 CFR Parts 73 or 73a or of any statute listed in Appendix A to 45 CFR Part 73 should report such information directly to the Policy Management Staff. Any such reports shall be in writing or shall with the assistance of the Policy Management Staff be reduced to writing, and shall be promptly investigated.

(c) Any report pursuant to paragraph (b) of this section and any records relating to an investigation of such reports shall be maintained in strict confidence in the files of the Policy Management Staff, shall be exempt from public disclosure, and may be reviewed only by authorized Food and Drug Administration employees who are required to do so in the performance of their duties.

§ 2.620 Permanent disqualification of former employees.

No former Food and Drug Administration employee, including a special government employee, shall knowingly act as agent or attorney for anyone other than United States in connection with any judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, or other particular matter involving a specific party or parties in which the United States is a party or has a direct and substantial interest and in which he participated personally and substantially through decision, ap-

proval, disapproval, recommendation, rendering of advice, investigation, or otherwise as a Food and Drug Administration employee.

§ 2.621 Temporary disqualification of former employees.

Within 1 year after termination of employment with the Food and Drug Administration, no former Food and Drug Administration employee, including a special government employee, shall appear personally before the Food and Drug Administration or other federal agency or court as agent or attorney for any person other than the United States in connection with any proceeding or matter in which the United States is a party or has a direct and substantial interest and which was under his official responsibility at any time within one year preceding termination of such responsibility. The term "official responsibility" means the direct administrative or operating authority, whether intermediate or final, and either exercisable alone or with others, and either personally or through subordinates, to approve, disapprove, or otherwise direct government action.

PART 8—COLOR ADDITIVES

2. By amending § 8.27 by adding a sentence at the end of paragraph (b) to read as follows:

§ 8.27 Certification.

(b) * * * Any person who contests such refusal shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

3. By revising § 8.28(b) to read as follows:

§ 8.28 Authority to refuse certification service.

(b) Any person who contests suspension of service shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

4. By amending § 8.33 by adding a sentence at the end of paragraph (a) to read as follows:

§ 8.33 Exemption of color additives for investigational use.

(a) * * * Any person who contests a refusal to grant such authorization shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

PART 10—DEFINITIONS AND STANDARDS FOR FOOD

5. By adding a new paragraph (1) to § 10.5 to read as follows:

§ 10.5 Temporary permits for interstate shipment of experimental packs of food varying from the requirements

of definitions and standards of identity.

(1) Any person who contests denial, modification, or revocation of a temporary permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

PART 202—PRESCRIPTION DRUG ADVERTISING

6. In Part 202, by adding a new paragraph (j) (5) to § 202.1 to read as follows:

§ 202.1 Prescription drug advertisements.

(j) * * *

(5) The sponsor shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter with respect to any determination that prior approval is required for advertisements concerning a particular prescription drug, or that a particular advertisement is not approvable.

PART 312—NEW DRUGS FOR INVESTIGATIONAL USE

7. In Part 312, by revising § 312.1 (c) (1) and (4), and (d), to read as follows:

§ 312.1 Conditions for exemption of new drugs for investigational use.

(c) (1) Whenever the Food and Drug Administration has information indicating that an investigator has repeatedly or deliberately failed to comply with the conditions of these exempting regulations outlined in Form FD-1572 or FD-1573, set forth in paragraph (a) (12) and (13) of this section, or has submitted to the sponsor of the investigation false information in his Form FD-1572 or FD-1573 or in any required report, the Bureau of Drugs will furnish the investigator written notice of the matter complained of in general terms and offer him an opportunity to explain the matter in an informal conference and/or in writing. If an explanation is offered but not accepted by the Bureau of Drugs, the investigator shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter, on the question of whether the investigator is entitled to receive investigational new drugs.

(4) If the Commissioner determines, after the unreliable data submitted by the investigator are eliminated from consideration, that the data remaining are inadequate to support a conclusion that it is reasonably safe to continue the investigation, he will notify the sponsor who shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter. If a

danger to the public health exists, however, he shall terminate the exemption forthwith and notify the sponsor of the termination. In such event the sponsor shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on the question of whether the exemption should be reinstated.

(d) If any official of the Bureau of Drugs who is delegated the authority finds that:

(1) The submitted "Notice of claimed investigational exemption for a new drug" contains an untrue statement of a material fact or omits material information required by said notice; or

(2) The results of prior investigations made with the drug are inadequate to support a conclusion that it is reasonably safe to initiate or continue the intended clinical investigations with the drug; or

(3) There is substantial evidence to show that the drug is unsafe for the purposes and in the manner for which it is offered for investigational use; or

(4) There is convincing evidence that the drug is ineffective for the purposes for which it is offered for investigational use; or

(5) The methods, facilities, and controls used for the manufacturing, processing, and packing of the investigational drug are inadequate to establish and maintain appropriate standards of identity, strength, quality, and purity as needed for safety and to give significance to clinical investigations made with the drug; or

(6) The plan for clinical investigations of the drugs described under section 10 of the "Notice of claimed investigational exemption for a new drug" is not a reasonable plan in whole or in part, solely for a bona fide scientific investigation to determine whether or not the drug is safe and effective for use; or

(7) The clinical investigations are not being conducted in accordance with the plan submitted in the "Notice of claimed investigational exemption for a new drug"; or

(8) The drug is not intended solely for investigational use, since it is being or is to be sold or otherwise distributed for commercial purposes not justified by the requirements of the investigation; or

(9) The labeling or other informational material submitted for the drug as required by section 7 of the "Notice of claimed investigational exemption for a new drug" or any other labeling of the drug disseminated within the United States by or on behalf of the sponsor fails to contain an accurate description of prior investigations or experience and their results pertinent to the safety and possible usefulness of the drug, including all relevant hazards, contraindications, side-effects, and precautions; or any promotional materials disseminated within the United States by or on behalf of the sponsor contains any representation or suggestion that the drug is safe or that

its usefulness has been established for the purposes for which it is offered for investigations; or

(10) The sponsor fails to submit accurate reports of the progress of the investigations with significant findings at intervals not exceeding 1 year; or

(11) The sponsor fails promptly to investigate and inform the Food and Drug Administration and all investigators of newly found serious or potentially serious hazards, contraindications, side-effects, and precautions pertinent to the safety of the new drug; he shall notify the sponsor and invite his immediate correction or explanation. A conference will be arranged with the Bureau of Drugs if requested. If the Bureau of Drugs does not accept the explanation or the correction submitted by the sponsor, the sponsor shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on the question of whether his exemption should be terminated. Such hearing shall be requested within 10 days after receipt of notification that the explanation or correction is not acceptable. After evaluating all the available information including any explanation and or correction submitted by the sponsor, if the Commissioner determines that the exemption should be terminated he shall notify the sponsor of the termination of the exemption and the sponsor shall recall unused supplies of the drug. If at any time the Commissioner concludes that continuation of the investigation presents a danger to the public health, he shall terminate the exemption forthwith and notify the sponsor of the termination. The Commissioner will inform the sponsor that the exemption is subject to reinstatement on the basis of additional submissions that eliminate such danger and will afford the sponsor an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on the question of whether the exemption should be reinstated. The sponsor shall recall the unused supplies of the drug upon notification of the termination.

8. By revising § 312.9(c) (2) to read as follows:

§ 312.9 New drugs for investigational use in laboratory research animals or in vitro tests.

(c) * * *

(2) The continuance of the investigation is unsafe or otherwise contrary to the public interest or the drug is used for purposes other than bona fide scientific investigation. He shall notify the sponsor and invite his immediate correction. If the conditions of the exemption are not immediately met, the sponsor shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter. If the exemption is terminated, the sponsor shall recall or have destroyed the unused supplies of the drug.

PART 429—DRUGS COMPOSED WHOLLY OR PARTLY OF INSULIN

9. In Part 429, by revising § 429.50 to read as follows:

§ 429.50 Hearing procedure.

Hearings pursuant to § 429.47 shall be governed by Subpart F of Part 2 of this chapter.

PART 431—CERTIFICATION OF ANTIBIOTIC DRUGS

10. In Part 431, by revising § 431.52 to read as follows:

§ 431.52 Hearings.

Any person who contests the suspension of certification service under § 431.51 shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

PART 433—EXEMPTIONS FROM ANTIBIOTIC CERTIFICATION AND LABELING REQUIREMENTS

11. In Part 433, by revising § 433.2 (c) and (d) to read as follows:

§ 433.2 Conditions on the effectiveness of exemptions from certification.

(c) If the Commissioner repeals or suspends an exemption for an antibiotic drug, the approved new drug application, or an exemption from batch certification requirements, a notice to that effect and the reasons therefor will be published in the FEDERAL REGISTER.

(d) Any person who contests the revocation or suspension or denial of reinstatement of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

12. By revising § 433.12(b)(4) and adding a paragraph (b)(5) to read as follows:

§ 433.12 Exemption for labeling.

(b) When the Commissioner finds that such application contains any untrue statement of a material fact or that any provision of any such agreement has been violated he may revoke such permit.

(5) Any person who contests the denial or revocation of a permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

13. By revising § 433.13(b) to read as follows:

§ 433.13 Exemption for manufacturing use.

(b) An application for such a permit shall be in a form specified by the Commissioner, shall give the name and location of the establishment in which such drug is to be used and shall be accompanied by;

(1) A written agreement signed by the applicant that he will keep complete records showing the date, quantity, and batch mark of each shipment and other delivery of any such drug to such establishment, and that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such shipment or delivery;

(2) A written statement signed by the operator of such establishment showing that he has adequate facilities for the manufacture of such other drug; such statement shall contain an agreement that he will keep complete records showing the date of receipt by him and the quantity and batch mark of each such shipment and delivery and the disposition thereof and showing the quantity and batch mark of each batch of such other drug manufactured by him and the disposition thereof; that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such disposition, and that he will accord full opportunity to such officer or employee to make inventories of stocks on hand and otherwise check the correctness of such records; and

(3) A written agreement signed by the person who will own the drug after its manufacture is completed that he will request certification of each batch thereof unless it is exempt under section 801 (d) of the act or §§ 433.12, 433.14, 433.16, or 433.17, and that he will not remove any of such drug from such establishment unless it complies with section 502(1) of the act or the certification requirements of section 512(n) of the act or is so exempt or is returned to him for labeling.

When the Commissioner finds that such application contains any untrue statement of a material fact or that any provision of any such agreement has been violated, he may revoke such permit. Any person who contests the denial or revocation of a permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

14. By revising § 433.14(b) to read as follows:

§ 433.14 Exemption for storage.

(b) An application for such a permit shall be in a form specified by the Commissioner, and shall give the name and location of the warehouse in which such drug is to be stored. Such application shall be accompanied by:

(1) A written agreement signed by the applicant that he will request certification of each batch thereof unless it is exempt under section 801(d) of the act or §§ 433.12, 433.13, or 433.16, that he will not remove any of such drug from such warehouse unless it complies with section 502(1) of the act or the certification

requirements of section 512(n) of the act or is so exempt or, if certification is refused unless it is returned within a reasonable time to permit reprocessing and certification, destruction, or such exemption at the establishment where it was manufactured; that he will keep complete records showing the date, quantity, and batch mark of each shipment and other delivery of any such drug to such warehouse, and that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such shipment or delivery; and

(2) A written statement signed by the operator of such warehouse showing that he has adequate facilities for such storage; such statement shall contain an agreement that he will hold each shipment or other delivery of such drug intact, under such conditions as will not cause failure of the drug to comply with the requirements for certification, that he will keep complete records showing the date of receipt by him and the quantity and batch mark of each such shipment and delivery and the disposition thereof, that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such disposition, and that he will accord full opportunity to such officer or employee to make inventories of stocks on hand and otherwise check the correctness of such records.

If the applicant keeps complete records showing the date, quantity, and batch mark of each shipment and other delivery of any such drug from such warehouse and the name and post-office address of the person to whom such shipment or delivery was made, the agreement to keep records of such disposals, to make such records available, and to afford opportunity for checking their correctness may be included in the applicant's agreement and omitted from that of the operator. When the Commissioner finds that such application contains any untrue statement of a material fact or that any provision of any such agreement has been violated he may revoke such permit. Any person who contests the denial or revocation of a permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

15. By revising § 433.15(b) to read as follows:

§ 433.15 Exemption for processing.

(b) An application for such a permit shall be in a form specified by the Commissioner and shall give the name and location of the establishment in which such processing is to be done. Such application shall be accompanied by:

(1) A written agreement signed by the applicant that he will keep complete records showing the date, quantity, potency, and batch mark of each shipment and

other delivery of any such solution to such establishment, and that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such shipment or delivery;

(2) A written agreement signed by the operator of such establishment showing that he has adequate facilities for such processing; such statement shall contain an agreement that he will keep complete records showing the date of receipt by him and the quantity and batch mark of each such shipment and delivery and the disposition thereof, that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such disposition, and that he will accord full opportunity to such officer or employee to make inventories of stocks on hand and otherwise check the correctness of such records; and

(3) A written agreement signed by the person who will own the drug after the processing is completed that he will request certification of each batch thereof unless it is exempt under section 801(d) of the act or §§ 433.12, 433.13, 433.14, 433.16, or 433.17, and that he will not remove any of such drug from such establishment unless it complies with section 502(l) of the act or the certification requirements of section 512(n) of the act is so exempt.

When the Commissioner finds that such application contains any untrue statement of a material fact or that any provision of any such agreement has been violated he may revoke such permit. Any person who contests the denial or revocation of a permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

16. By revising § 433.16(b) to read as follows:

§ 433.16 Exemption for repacking.

(b) An application for such a permit shall be in a form specified by the Commissioner, and shall give the name and location of the establishment in which such repacking is to be done. Such application shall be accompanied by:

(1) A written agreement signed by the applicant that he will keep complete records showing the date, quantity, and batch mark of each shipment and other delivery of any such drug to such establishment, and that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of each shipment or delivery;

(2) A written statement signed by the operator of such establishment showing that he has adequate facilities for such repacking; such statement shall contain an agreement that he will keep complete records showing the date of receipt by

him and the quantity and batch mark of each such shipment and delivery and the disposition thereof, that he will make such records available to any officer or employee of the Food and Drug Administration at any reasonable hour within 3 years after the date of such disposition, and that he will accord full opportunity to such officer or employee to make inventories of stocks on hand and otherwise check the correctness of such records; and

(3) A written agreement signed by the person who will own the drug after the repacking is completed that he will request certification of each batch thereof unless it is exempt under section 801(d) of the act or §§ 433.12, 433.13, 433.14, or 433.17, and that he will not remove any of such drug from such establishment unless it complies with section 502(l) of the act or the certification requirements of section 512(n) of the act or is so exempt or is returned to him for labeling or, if certification is refused, unless it is returned within a reasonable time to permit reprocessing and certification, destruction, or such exemption at the establishment where it was manufactured.

When the Commissioner finds that such application contains any untrue statement of a material fact or that any provision of any such agreement has been violated he may revoke such permit. Any person who contests the denial or revocation of a permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

PART 511—NEW ANIMAL DRUGS FOR INVESTIGATIONAL USE

17. In Part 511, by amending § 511.1 by revising the undesignated paragraph at the end of paragraph (b) (5) and paragraphs (c) (1) and (4) and (d) (2) to read as follows:

§ 511.1 New animal drugs for investigational use exempt from section 512 (a) of the act.

(b) * * *

(5) * * *

Authorizations granted under this subparagraph do not exempt investigational animals and their products from compliance with other applicable inspection requirements. Any person who contests a refusal to grant such authorization shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

(c) *Withdrawal of eligibility to receive investigational-use new animal drugs.*

(1) Whenever the Food and Drug Administration has information indicating that an investigator has repeatedly or deliberately failed to comply with the conditions of these exempting regulations or has submitted false information either

to the sponsor of the investigation or in any required report, the Bureau of Veterinary Medicine will furnish the investigator written notice of the matter complained of in general terms and offer him an opportunity to explain the matter in an informal conference and/or in writing. If an explanation is offered but not accepted by the Bureau of Veterinary Medicine, the investigator shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on the question of whether the investigator is entitled to receive investigational new animal drugs.

(c) (4) If the Commissioner determines, after the unreliable data submitted by the investigator are eliminated from consideration, that the data remaining are inadequate to support a conclusion that it is reasonably safe to continue the investigation, he shall first notify the sponsor, who shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on whether the exemption should be terminated. If a danger to the public health exists, however, he shall terminate the exemption forthwith and notify the sponsor of the termination. In such event the sponsor shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on the question of whether the exemption should be reinstated.

(d) * * *

(2) The continuance of the investigation is unsafe or otherwise contrary to the public interest or the drug is being or has been used for purposes other than bona fide scientific investigation, he shall first notify the sponsor and invite his immediate correction. If the conditions of the exemption are not immediately met, the sponsor shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter on whether the exemption should be terminated. If the exemption is terminated the sponsor shall recall or have destroyed the unused supplies of the new animal drug.

PART 514—NEW ANIMAL DRUG APPLICATIONS

18. By revising § 514.210 to read as follows:

§ 514.210 Hearing procedure.

Hearings pursuant to § 514.155 shall be governed by Subpart F of Part 2 of this chapter.

PART 1003—NOTIFICATION OF DEFECTS OF FAILURE TO COMPLY

19. In Part 1003, by amending § 1003.11 by adding an undesignated paragraph at the end of paragraph (a) as follows:

§ 1003.11 Determination by Secretary that product fails to comply or has a defect.

(a) * * *

The manufacturer shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

20. By adding § 1003.31(d) to read as follows:

§ 1003.31 Granting the exemption.

(d) Any person who contests denial of an exemption shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

PART 1004—REPURCHASE, REPAIRS, OR REPLACEMENT OF ELECTRONIC PRODUCTS

21. In Part 1004, by amending § 1004.6 by adding the following new sentence at the end, as follows:

§ 1004.6 Approval of plans.

* * * Any person who contests denial of a plan shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

PART 1210—REGULATIONS UNDER THE FEDERAL IMPORT MILK ACT

22. In Part 1210, by revising the heading of Subpart D and § 1210.30 to read as follows:

Subpart D—Hearings

§ 1210.30 Hearing procedure for permit denial, suspension, and revocation.

Any person who contests denial, suspension, or revocation of a permit shall have an opportunity for a regulatory hearing before the Food and Drug Administration pursuant to Subpart F of Part 2 of this chapter.

23. By revoking § 1210.31 and by redesignating § 1210.63 as new § 1210.31 to read as follows:

§ 1210.31 Hearing before prosecution.

Before violation of the act is referred to the Department of Justice for prosecution under section 5 of the Federal Import Milk Act, an opportunity to be heard will be given to the party against whom prosecution is under consideration. The hearing will be private and confined to questions of fact. The party notified may present evidence, either oral or written, in person or by attorney, to show cause why he should not be prosecuted. After a hearing is held, if it appears that the law has been violated, the facts will be reported to the Department of Justice.

§§ 1210.32, 1210.33, 1210.40, 1210.41, 1210.42, 1210.43, 1210.44, 1210.50, 1210.51, 1210.52, 1210.53, 1210.54, 1210.55, 1210.56, 1210.57, 1210.58, 1210.59, 1210.60, 1210.61, 1210.62, [Revoked].

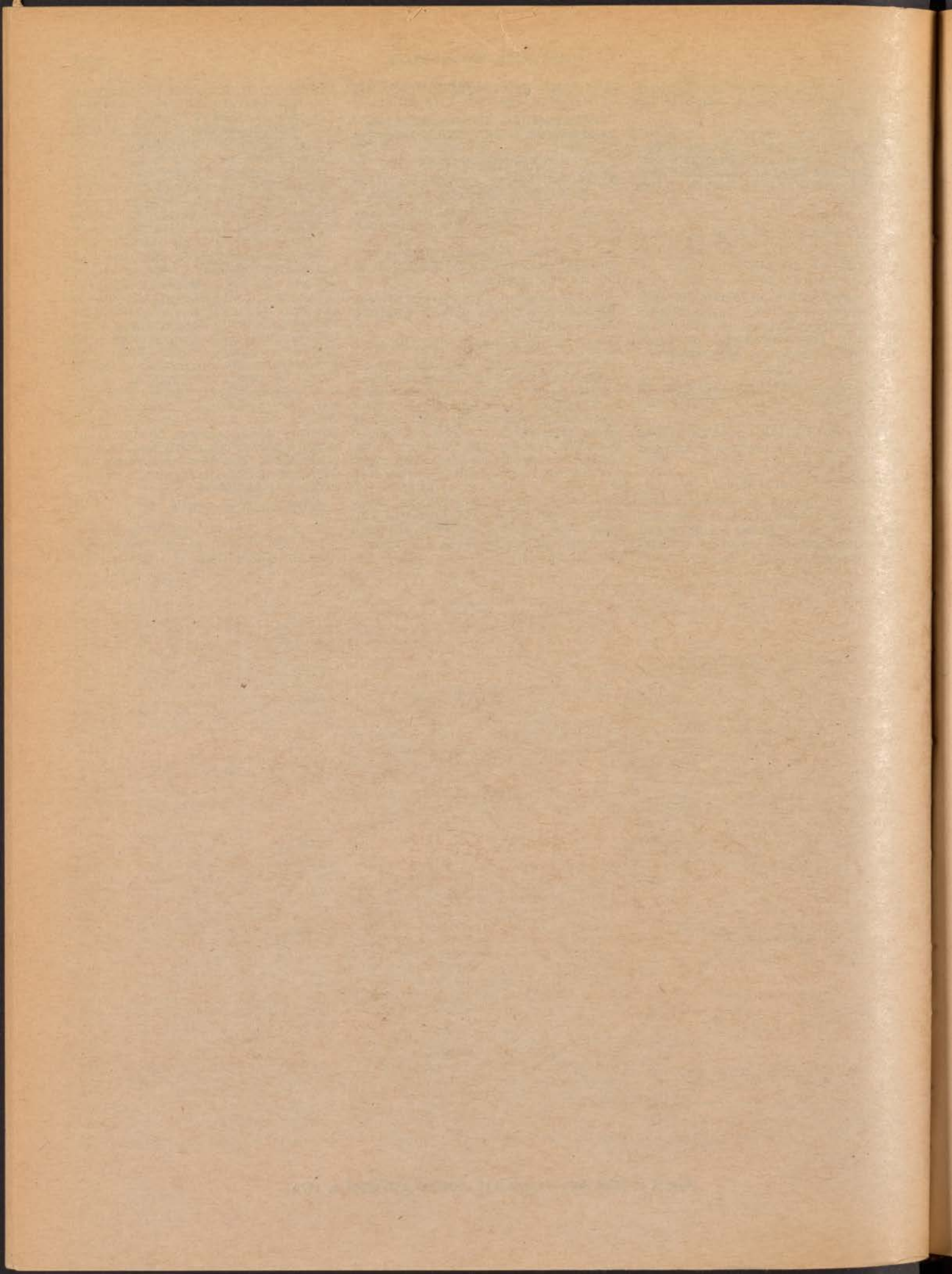
24. By revoking §§ 1210.32, 1210.33, and Subparts E, F and G of Part 1210, including 1210.40, 1210.41, 1210.42, 1210.43, 1210.44, 1210.50, 1210.51, 1210.52, 1210.53, 1210.54, 1210.55, 1210.56, 1210.57, 1210.58, 1210.59, 1210.60, 1210.61, 1210.62.

Effective date: These regulations shall be effective December 2, 1976. Interested persons may on or before December 2, 1976, submit to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, MD 20852, written comments regarding provisions of the final regulations that differ from the regulations as proposed. Comments should be filed in quintuplicate (except that individuals may submit single copies), and should be identified with the Hearing Clerk docket number found in brackets in the heading of this document. Received comments may be seen in the above office Monday through Friday, from 9 a.m. to 4 p.m., except on Federal legal holidays.

Dated: October 22, 1976.

A. M. SCHMIDT,
Commissioner of Food and Drugs.

[FR Doc.76-32019 Filed 11-1-76;8:45 am]



federal register

TUESDAY, NOVEMBER 2, 1976



PART V:

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION

■

PRIVACY ACT OF 1974

Systems of Records

ENERGY RESEARCH AND DEVELOPMENT ADMINISTRATION PRIVACY ACT OF 1974 Systems of Records

In accordance with 5 U.S.C. 552a(e)(4) of the Privacy Act of 1974 (P. L. 93-579), the Energy Research and Development Administration (ERDA) is publishing the annual notice of the systems of records currently maintained by the agency consisting of:

(1) Notices of ERDA systems of records as originally adopted and published in the FEDERAL REGISTER at 40 FR 49889-49931, October 24, 1975.

(2) New System ERDA 42 which was proposed by notice in the FEDERAL REGISTER at 41 FR 14498, April 5, 1976, for which public comments were invited. None was received.

(3) The ERDA (System Notice) Appendix AA, "Additional Routine Uses" set forth at 40 FR 49930, October 24, 1975, was amended to add a new additional use: 9, "Congressional Inquiries"—adopted and published at 41 FR 14921, April 8, 1976.

(4) In addition, the following describes changes included in the republished systems:

(a) In System ERDA 11, "Personnel Supervisor Records," and System ERDA 38, "Employee and Visitor Access Control Records," under the paragraph "Categories of records in the system," the word "photographs" has been included in the list, it having been inadvertently omitted from the original system notice.

(b) In Systems ERDA 6, 7, 9, 22, 24, 26, 28, 31, 41, 42 under "System location," and "Notification Procedure" reference to the ERDA Clinch River Breeder Reactor Plant Project, with address, is added.

(c) Addresses and locations of systems and offices have been corrected and updated as appropriate, with additions and deletions required.

(d) The System Manager responsible for System ERDA 24, "Medical History System—ERDA and Contractor Employees," has been redesignated as the "Director, Division of Safety, Standards, and Compliance."

(e) The System Manager responsible for System ERDA 40, "Nationwide Traineeship Reporting System," has been redesignated as the "Director, Office of University Programs."

(f) The name of the ERDA "Office of Internal Review" having been changed from "Office of Audit and Inspection," the change is reflected in System ERDA 21, "Investigative Files."

(g) The material reflects correction of miscellaneous typographical errors together with other minor additions and changes of a clarifying nature in composition, arrangement, capitalization, and grammar.

Dated: October 15, 1976.

R. G. Romatowski,
Assistant Administrator for Administration.

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ERDA 18 Investigations Pertaining to Violations of Law and Losses of Security Interest—ERDA

ERDA 19 Foreign Travel—ERDA

ERDA 20 Government Driver's License File—ERDA

ERDA 21 Investigative Files—ERDA

ERDA 22 Labor Standards Complaints and Grievance Filed—ERDA

ERDA 23 Legal Office—Claims, Litigations, Criminal Violations, Patents, and other Legal Files—ERDA

ERDA 24 Medical History System—ERDA and Contractor Employees—ERDA

ERDA 25 Nuclear Qualification Examination Records (for personnel to be assigned to ships, shipyards and prototypes)—ERDA

ERDA 26 Occupational and Industrial Health and Safety Records—ERDA

ERDA 27 Payroll and Leave—ERDA

ERDA 28 Payroll and pay related data for employees of terminated contractors—ERDA

ERDA 29 Personnel Assurance Records—ERDA

ERDA 30 Personnel radiation exposure information—ERDA

ERDA 31 Personnel Records of Former and Present Contractor Employees—ERDA

ERDA 32 Personnel Security Clearance Files—ERDA

ERDA 33 Personnel Security Clearance Index—ERDA

ERDA 34 (Reserved)

ERDA 35 Security Education and/or Infraction Reports—ERDA

ERDA 36 Special Access Authorization for Categories of Classified Information—ERDA

ERDA 37 Statistical Analysis Using Personnel Security Questionnaire (Mancuso Study)—ERDA

ERDA 38 Employee and Visitor Access Control Record—ERDA

ERDA 39 Weapon Data and Weapons Program Facilities—Access to—ERDA

ERDA 40 Nationwide Traineeship Reporting System—ERDA

ERDA 41 Travel Files—ERDA

ERDA 42 Document Distribution System—ERDA

Appendix AA Additional Routine Uses

ERDA 1

System name:

Alien visits and participation—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

U.S. Energy Research and Development Administration
Dayton Area Office
P.O. Box 66
Miamisburg, Ohio 45342

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactor Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

Categories of individuals covered by the system:

Resident aliens who visit and participate at Energy Research and Development Administration Offices and Energy Research and Development Administration contractor facilities.

Categories of records in the system:

Federal Agencies indices checks and Energy Research and Development Administration records regarding Alien visits and participation at Energy Research and Development Administration offices and/or contractor facilities.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Government agencies with military, intelligence, or law enforcement responsibilities—Investigative purposes and to refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file, retrieved manually

Retrievability: Indexed chronologically, name and visit number

Safeguards: Access limited to employees with need-to-know; stored in security areas under guard and/or alarm protection

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Safeguards and Security, U.S. Energy Research and Development Administration, Washington, D.C. 20545 has been designated the Agency System Manager for this system. The managers and directors of field locations listed under notification below are designated system managers for their respective portions of this system.

Notification procedure: a. U.S. Energy Research and Development Administration, Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration

Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

b. Required Identifying Information: indicate full name, nationality; and, date and location of visit.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Individual; reports from Federal Investigation Agencies conducting indices investigations; and, letters and/or plans from Energy Research and Development Administration operating office, operating divisions and Energy Research and Development Administration contractor facilities.

Systems exempted from certain provisions of the act: The Administrator has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5). See ERDA rules, 10 CFR Chapter 111, Part 708.

ERDA 2

System name:

Applications and reference checks for overseas employment with International Atomic Energy Agency (IAEA)—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

Categories of individuals covered by the system:

U.S. citizens interested in employment with International Atomic Energy Agency, Vienna, Austria

Categories of records in the system:

Education, employment history, salary and personal reference checks

Authority for maintenance of the system:

Executive Order 10422, Executive Order 11552, PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

U.S. Mission to IAEA, Vienna and other governmental agencies interested in foreign programs. Evaluation prior to offers of employment IAEA—Evaluation prior to offers of employment plus selection for employment.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files

Retrievability: Name, specialty, IAEA organizational designation.

Safeguards: Maintained in safes, access is limited to personnel of IAEA Branch and Office of Assistant Director for Agreements and Liaison.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director Division of International Programs,
U.S. Energy Research and Development Administration,
Washington, D.C. 20545, has been designated the Agency
System Manager for this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

b. Required Identifying Information: Full name, field of specialization, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Individuals seeking employment, references, and references and information provided by knowledgeable agency personnel.

ERDA 3

System name:

ERDA Personnel—Appraisal and Development
Records—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58201

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration

Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system:

All Energy Research and Development Administration employees

Categories of records in the system:

Supervisor-employee appraisal, by name of employee, of performance, preparation of development plans, and, for employees GS-13 and above a determination potential for executive positions

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.), Public Law 85-507, Executive Order 11348

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: On Paper Form ERD 622. Some older records on ERDA Form 625.

Retrievability: Alphabetic by name

Safeguards: Usually in file cabinet

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Personnel
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Location(s), full name, social security number, date of birth, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

From the supervisor and employee during the annual review, information is documented on the ERDA Form 622 or 625.

ERDA 4

System name:

Census of High Energy Physicists—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

Categories of individuals covered by the system:

Scientists and graduate students in the field of high energy physics

Categories of records in the system:

Name, date of birth, education, employment history, research support agencies, technical specialties.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Physicists, research organizations and various government organizations engaged in physics research—to obtain information on individuals and organizations engaged in high energy physics research.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape

Retrievability: Alphabetical by name, employer or any other combination of data

Safeguards: Access limited to Division of Physical Research Personnel, maintained in locked file cabinet in secured building.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director,
Division of Physical Research,
U.S. Energy Research and Development Administration,
Washington, D.C. 20545, has been designated the Agency System Manager for this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

b. Required Identifying Information: Requestor should provide his full name, and education (Degree, date and University).

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

High energy physics research group leaders and laboratory directors. Other personnel in field of high energy physics.

ERDA 5**System name:**

Clearance Board Cases Administrative Review and Personnel—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545.

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Monsanto Research Corporation, Mound Laboratory
Miamisburg, Ohio 45342

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system:

Employees, access permittees, consultants and prospective employees of the Energy Research and Development Administration and Energy Research and Development Administration contractors and access permit holders.

Categories of records in the system:

Results of investigation concerning individuals processed for access authorizations (clearances).

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Personnel involved in administrative review—Information used for reference during review board hearings. Federal law enforcement and investigative agencies—To refer, where there is an indication of a violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file manually retrieved; also maintained on magnetic tape at Oak Ridge office.

Retrievability: Indexed by name.

Safeguards: Access limited to employees having need-to-know; stored in security areas under guard and/or guard protection.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Safeguards and Security
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The managers and directors of field locations listed under Notification below are designated system managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

b. Required Identifying Information: Full name, date of birth, social security number, clearance processing location, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Personnel Security Questionnaire and Fingerprint Card executed by individual; background investigation reports by Federal Bureau of Investigation, Civil Service Commission and other Government agencies conducting background

investigations; summaries and transcripts of interviews with the individual; transcripts of Administrative Review Board hearings with individual; correspondence to individual concerning administrative processing of clearance action and local and state police agency reports.

Systems exempted from certain provisions of the act: The Administrator has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5). See ERDA rules, 10 CFR Chapter 111, Part 708.

ERDA 6

System name:

Compensation for Contractor Employees (25,000 Dollars or More)—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

Categories of individuals covered by the system:

Administrative, Professional, Scientific personnel.

Categories of records in the system:

Name, contractor, salary history, and current salary.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: File cabinets in mail and file room.

Retrievability: Alphabetically by name, usually on paper.

Safeguards: Records kept in file cabinets in guarded buildings.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill as appropriate.

System manager(s) and address:

The Director, Division of Labor Relations
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Full name, location of last employment, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

From contractor salary administrative personnel.

ERDA 7

System name:

Consultants to ERDA Contractors—(Directory of)—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration

Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system:

Consultants to ERDA Contractors

Categories of records in the system:

Biographical notes, personal data/correspondence, employment history, education, salary/total compensation, area of specialization, contractual arrangements and duration, service provided and research support.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper

Retrievability: Indexed chronologically, alphabetically by contractor, alphabetically by consultant name.

Safeguards: Secure and guarded building—access on need-to-know basis, combination locked files, locked file cabinets

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Labor Relations
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration

Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Full name of consultant, name of contractor, area of contract work performed, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Reports from individuals, contractors, and Dun and Bradstreet.

ERDA 8

System name:

Security Correspondence File—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

Categories of individuals covered by the system:

Individual of interest to Energy Research and Development Administration officials.

Categories of records in the system:

Correspondence received from individuals; news media; and, informational reports.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Federal law enforcement and investigative agencies—To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file manually retrieved.

Retrievability: Indexed by name.

Safeguards: Access limited to individuals having need-to-know; stored in security area under guard protection.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Safeguards and Security
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification

below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration, Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

b. Required Identifying Information: Full name, date of birth, social security number, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Individual and official records; news media; and, organizations.

Systems exempted from certain provisions of the act:

Administrator has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5). See ERDA rules, 10 CFR Chapter 111, Part 708.

ERDA 9

System name:

Discrimination Complaint Files—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395

University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system:

Each ERDA employee, ERDA contractor employee, or Assigned Facilities contractor employee who has filed a written complaint of discrimination based on race, religion, national origin or sex with ERDA or with another Federal agency which has referred the complaint to ERDA.

Categories of records in the system:

The complaint, investigative reports and related correspondence.

Authority for maintenance of the system:

Executive order 11246 PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.), Executive Order 11478 PUB. L. 92-261.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Other federal state and local agencies—for purposes of considerations of charges, claims or appeals.CSC (Respecting complaints by ERDA Employees)—Equal Employment Opportunity enforcement purposes. U.S. Equal Employment Opportunity Commission, U.S. Department of Labor and State Fair Employment Commissions (Respecting complaints by contractor employees)—Equal employment opportunity enforcement purposes.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files

Retrievability: By name of complainant

Safeguards: Stored in locked files in guarded buildings, with access only to those personnel involved in processing the complaint.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Office of Equal Opportunity
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration

Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Full name, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Information is derived from personnel and payroll records and from interviews with ERDA and contractor employees.

ERDA 10

System name:

Employment and Financial Interests—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Office of the General Counsel
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
Office of the Chief Counsel
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Chicago Operations Office
Office of the Chief Counsel
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Junction Office
Office of the Chief Counsel
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
Office of the Chief Counsel
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Richland Operations Office
Office of the Chief Counsel
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
Office of the Chief Counsel
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Nevada Operations Office
Office of the Chief Counsel
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Albuquerque Operations Office
Office of the Chief Counsel
P.O. Box 5400

Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Savannah River Operations Office
Office of the Chief Counsel
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
Office of the Chief Counsel
P.O. Box 1069
Schenectady, New York 12301

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
Office of the Chief Counsel
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Los Alamos Area Office
Office of the Area Counsel
180 6th Street
Los Alamos, New Mexico 87544

U.S. Energy Research and Development Administration
Kansas City Area Office
P.O. Box 202
Kansas City, Missouri 64141

Categories of individuals covered by the system:

ERDA staff personnel (employees, consultants, advisors) whose positions involve activities action or decisions having an economic impact on any non-Federal enterprise.

Categories of records in the system:

Contains the name, position title, date of appointment; employment and financial interests; creditors; interests in real property; names and addresses of other persons requested to supply information; individual's certificate of truth and veracity.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.), EO 11222

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Cognizant appointing officials—To assist the Agency, CSC and the President in determining whether individuals have conflicts or apparent conflicts of interest in the performance of official duties; for counselling personnel in avoiding violations; for assignment of duties; law enforcement

Counsel within the Agency and Department of Justice—Prosecution or determination as to law enforcement.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files.

Retrievability: Indexed by name

Safeguards: Maintained in 3 way combination locked filing cabinets.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill as appropriate.

System manager(s) and address:

The General Counsel, ERDA—Headquarters
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Individual's name, ERDA
location of last employment or cognizant office, and time
period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Individual on whom the record is maintained.

ERDA 11

System name:

ERDA Personnel—Supervisor Records—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system:

Current employees; in a few cases, records include former
employees, assigned military personnel, or applicants

Categories of records in the system:

The contents vary from office to office, but include all or
some of the following: copies and summaries of employment
history, job descriptions, photography, education, address,
next of kin, phone number, date of birth, awards and
commendations received, participation in professional or
community activities, training, earnings and leave data,
travel actions, certification or qualification examinations,
injury reports, appraisals, copy of ADP-produced Form

ERDA-702, copy of Form ERDA-50, assignment records, security infraction notices, records of supervisory—employee discussions, reprimands, admonitions, adverse actions, contingency planning data, security clearance status, and government property in employee's possession.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper

Retrievability: By name

Safeguards: In files under control of supervisory official

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director of Personnel, U.S. Energy Research and Development Administration, Washington, D.C. 20545, has been designated the Agency System Manager for this system. The cognizant supervisor personnel in the appropriate office and location listed under Notification if said personnel retain such records, are designated System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration, Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration

Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Complete name, and, if appropriate, the geographic location(s), organization(s), the name of the supervisor where requester believes such records may be located, and the time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters

Record source categories:

The greatest majority of the data comes directly from the individuals or cognizant supervisory official; other data comes from copies of personnel action document.

Systems exempted from certain provisions of the act:

The Administrator has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k)(5) and (6). See ERDA rules, 10 CFR Chapter 111, Part 708.

ERDA 12

System name:

ERDA Personnel Applicant Records—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system:

Individuals applying for, or inquiring about, employment with ERDA

Categories of records in the system:

Standard Form 171, "Personal Qualifications Statement"; letters of inquiry and general applications; resumes of personal data, education, and work experience; personnel evaluation forms; completed reference check letters or forms; interview summary sheets; education, military and employment history statements; correspondence related to recruitment, application and employment; test records and academic transcripts (as appropriate); other documents related to application and employment.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 221), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Key operating officials and supervisors (including military personnel assigned to ERDA or directly associated with the naval or military application functions of ERDA—Referrals of applicants, evaluation of qualifications and selection of candidates under consideration for employment, or in other activities directly concerned with their official responsibilities.

Colleges and Universities participating in the ERDA recruiting program—Performance of regular practices in placement of students and in receiving information concerning evaluation or selection of their graduates.

Other Government Investigative Agencies—In the event these records indicate a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency whether federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and punched cards

Retrievability: Occupational category, name, date, register number; in college recruitment files, retrievable by education institution's name

Safeguards: Physical security varies: usually administratively-controlled access to authorized personnel in a locked and guarded building or in locked file cabinets.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director of Personnel
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration

Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Full name, social security number, date of birth, occupational category and location at which application or other material was submitted; in case of college recruitment material, applicable college or university name; and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Individuals seeking, or referred for, employment; personal references provided by individuals; personnel administrators, officials, assistants, and other staff; interviewers; current and former employers, teachers, supervisors, and other government agencies; Congressmen, testing officials, State Employment Service; and educational institutions

Systems exempted from certain provisions of the act:

The Administrator has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k)(5) and (6). See ERDA rules, 10 CFR Chapter 111, Part 708.

ERDA 13

System name:

ERDA Contractor Employee Insurance Claims—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

Categories of individuals covered by the system:

Claimants under Workmen's Compensation Insurance, Third party claimants against ERDA contractors.

Categories of records in the system:

Accident reports, physician statements, pictures, maps, sketches, claimant and witnesses statements, doctors and hospital bills, reports from engineering firms, claims activity reports.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Insurance companies—In administering problem claims against ERDA contractors and ERDA. State and local agencies—for consideration of insurance claims. Physicians—claim evaluation. Lawyers claim evaluation. State industrial commissions—claim evaluation. Claims—adjustment services firms—claim evaluation.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, computer, printouts

Retrievability: By name, claim number.

Safeguards: Locked building.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill as appropriate.

System manager(s) and address:

The Director, Division of Labor Relations
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

b. Required Identifying Information: Full name and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

From insurance company's claim files and from claimants and witnesses.

ERDA 14

System name:

ERDA Technology Training Program—Skill Training at Technician Level—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

Oak Ridge Associated Universities
Oak Ridge Operations Office
P.O. Box 117
Oak Ridge, Tennessee 37830

Categories of individuals covered by the system:

Technician skill level training for industrial employers within the energy industry, e.g., Construction, Electro/Mechanical Drafting, Inhalation Toxicologists, Radiation Monitoring, Welding Inspection, Vacuum Technology, and/A Ser and Optics Technology.

Categories of records in the system:

Application for training assignment, work history, education, training evaluation.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and punched cards.

Retrievability: Participants name.

Safeguards: Guarded building.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director

Division of Labor Relations

U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P. O. Box 550
Richland, Washington 99352

b. Required Identifying Information: Full name, training program, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

From individuals and contractors by whom the individual is employed.

ERDA 15**System name:**

ERDA Personnel/General Employment Records—(Addendum to the U.S. Civil Service Commission Federal Register Notice of Records reporting CSC-General Personnel Records (Official Personnel Folder and Related Records))—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration

Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system: Current and former employees, consultants, board members and applicants only to the extent they are considered for competitive selection.

Categories of records in the system:

Official Personnel Folders (SF-66), Service Record Cards (SF-7), records on suggestions and awards, training request and authorization data, training course evaluation statements, appraisals resulting from annual supervisor-employee review, pay requests and dispositions, reduction-in-force registers (including associated records of competitive levels and competitive areas), reemployment and repromotion priority lists, retirement associated eligibility and calculations, records on competitive selections (Form ERDA-178 and supporting documents), central copy of approved position descriptions, correspondence related to and copies of employee appeals, grievances, and complaints, including records of hearings or examiner's reports, lists of separated employees, correspondence from employees requesting transfer or reassignment, average grade data, data related to and derived from the "Personnel Automated Records and Information System" (PARIS).

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Operating officials, supervisors, and administrative staff (Including military personnel assigned to ERDA or directly associated with the naval or military application functions of ERDA.) The employment and management of the personnel resources assigned to or considered for their organization, or in other activities directly concerned with their official responsibilities.

Federal Bureau of Investigation or other Federal investigative organizations—To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto. Nuclear Regulatory Commission—Statistical and historical employment analysis. Congress; Office of Management and Budget—Agency employment and organization analysis. U.S. Civil Service Commission—Federal government employment, record keeping and reporting.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, computer printouts, punched cards, mag-tape and disk, microfilm.

Retrievability: Name, Social Security Number.

Safeguards: Locked file cabinets, controlled access rooms; computer center access-control to automated personnel data base; locked records and guarded buildings.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Personnel
U.S. Energy Research and Development Administration
Washington, D.C. 20545; has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400

Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Complete name, and, if appropriate, the geographic location(s) and organization(s) where requester believes such record may be located, social security number, date of birth, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Data comes directly from individual to whom it applies or is derived from information he/she supplied, except information that is provided by agency officials and/or obtained from official personnel actions.

Systems exempted from certain provisions of the act:

The Administrator has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k)(5) and (6). See ERDA rules, 10 CFR Chapter 111, Part 708.

ERDA 16**System name:**

FHA Insured Loans (Certificates of Eligibility)—ERDA

System location:

U.S. Energy Research and Development Administration
Los Alamos Area Office
180 6th Street
Los Alamos, New Mexico 87544

Categories of individuals covered by the system:

Persons having Certificates of Eligibility

Categories of records in the system:

Employment and Loan Information

Authority for maintenance of the system:

National Housing Act, PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Federal Housing Administration—For approval by area manager. (FHA) Personnel Processing of loan by FHA.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper.

Retrievability: Subject file, name.

Safeguards: Kept in locked building.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

Manager

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115, has been designated the Agency System Manager for this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

b. Required Identifying Information: Full name of individual and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Individuals involved, employer, real estate broker

ERDA 17**System name:**

Firearms Qualifications Record—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration

Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Amarillo Area Office
Pantex Plant, P.O. Box 1086
Amarillo, Texas 79105

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Dayton Area Office
Mound Laboratory, Box 66
Miamisburg, Ohio 45342

U.S. Energy Research and Development Administration
Kansas City Area Office
2000 E. Bannister Road, P.O. Box 202
Kansas City, Missouri 64141

U.S. Energy Research and Development Administration
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Pinellas Area Office
GE Pinellas Peninsula, P.O. Box 11500
St. Petersburg, Florida 33733

U.S. Energy Research and Development Administration
Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401

U.S. Energy Research and Development Administration
Sandia Area Office
Technical Area I, Kirtland Air Force Base-East
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
San Francisco Livermore Site Office
Trailer 125, Room 106
Livermore, California 94550

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

Categories of individuals covered by the system:

Energy Research and Development Administration employees and Energy Research and Development Administration contractor employees who familiarize or qualify with firearms in performance of regular duties.

Categories of records in the system:

Records of individual's annual qualification scores; approval of gun permits; accountability of firearms.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Wackenhut Services Incorporated (Nevada) Training and Administrative Personnel—Performance of regular duties

Los Alamos County Sheriff—Deputation of individuals

Los Alamos County Clerk—Recording of Deputy Commission

Los Alamos District Court Clerk—Recording of Deputy Commission.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file manually retrieved.

Retrievability: Indexed chronologically and by name.

Safeguards: Access limited to employees having need-to-know; stored in security areas under guard and/or alarm protection.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: The Director, Division of Safeguards and Security

U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Full name, date of birth, social security number, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Gun permit notifications and firearm qualifications results from individual and training personnel.

ERDA 18

System name:

Investigations Pertaining to Violations of Law and Losses of Security Interest—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Batavia Area Office
P.O. Box 2000
Batavia, Illinois 60510

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

Categories of individuals covered by the system:

Energy Research and Development Administration and ERDA contractor employees; private citizens.

Categories of records in the system:

Reports to determine cause and circumstance of accidents and/or incidents; and, traffic violators.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Federal, State and local law enforcement agencies—To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

Civil Service Commission—Investigative purposes

Property Owners and Insurance Companies—Insurance claims

ERDA Contractor Fire and Safety and Administrative Personnel—Evaluation of fire and safety incidents.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file manually retrieved; also on photographs and tape recordings at Batavia Office.

Retrievability: Indexed by name and chronologically.

Safeguards: Access limited to individuals having need-to-know; maintained in locked and guarded buildings.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: The Director, Division of Safeguards and Security

U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

- a. U.S. Energy Research and Development Administration, Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

- b. Required Identifying Information: Indicate full name, date of birth, employer, dates of employment and social security number.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Reports of investigations performed by security, fire, safety personnel; reports filed by local and state police departments; and, results of accident investigations and incidents.

ERDA 19

System name:

Foreign Travel—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

Categories of individuals covered by the system:

Energy Research and Development Administration and ERDA contractor employees traveling to foreign countries.

Categories of records in the system:

Security evaluation of individual's access to classified information and background data relating to proposed foreign travel; travel itinerary and summary report following completion of travel.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Law enforcement and intelligence agencies—Post travel discussions.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files, retrieved manually.

Retrievability: Indexed by name and chronologically.

Safeguards: Access limited to employees with need-to-know; stored in guarded buildings.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: The Director, Division of Safeguards and Security

U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

- a. U.S. Energy Research and Development Administration, Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration

Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

b. Required Identifying Information: Indicate full name, date of birth, employment location and dates of travel.

Record access procedures: Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Individual and employer of individual.

Systems exempted from certain provisions of the act:

The Administrator has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5). See ERDA rules, 10 CFR Chapter 111, Part 708.

ERDA 20

System name:

Government Drivers License File—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
P.O. Box 1398
Bartlesville, Oklahoma 74003.

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

U.S. Energy Research and Development Administration
Morgantown Energy Research Center

Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
New Brunswick Laboratory
P.O. Box 150
New Brunswick, New Jersey 08930

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395, University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

Categories of individuals covered by the system:

ERDA personnel, U.S. Geological Survey personnel, contractor personnel, U.S. Forest Service personnel, and Nuclear Regulatory Commission personnel

Categories of records in the system:

Government motor vehicle license applications, government motor vehicle operator's driving record, record of tests, investigations pertaining to possible misuses of government equipment, and vehicle restrictions

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.) CSC Regulations, 40 U.S.C. 471.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

National Safety Council and military personnel—Statistical, awards, determine qualifications for drivers license, employee's license history, managerial control
Contractors—Same as above and investigation of possible misuse of government equipment.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper and punched cards

Retrievability: Alphabetic by name, chronological by expiration date, date of incident, and numeric by badge number

Safeguards: Maintained in buildings with controlled access, combination file safe, and key lock file

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: The Director of Administrative Services

U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration, Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395, University Station
Laramie, Wyoming 82071

b. Required Identifying Information: Full name, location(s) of ERDA installation, where Government driver's license was issued, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

From individual, examining physician, or nurse, National Driver Register, Department of Transportation, shipment security records and trip summaries, safety engineer, citizens observing misuse of government equipment, and police

ERDA 21

System name:

Investigative Files—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

Resident Investigators, Office of Internal Review, assigned at the following Operations Offices:

Albuquerque Operations Office
Chicago Operations Office
Nevada Operations Office
Oak Ridge Operations Office
Richland Operations Office
San Francisco Operations Office

Categories of individuals covered by the system:

Current and former ERDA and contractor employees who are subjects of investigations, and individuals involved in miscellaneous investigative matters.

Categories of records in the system:

Investigative reports, memoranda, letters, and when applicable, performance evaluation of the assigned investigator.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Federal, state and local law enforcement Agencies—To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

General Accounting Office—Administrative evaluation of agency procedures, upon request.

Congress—Evaluation of agency procedures.

Individuals Who File Discrimination Complaints Against ERDA—Review results of discrimination investigation.

ERDA contractor management personnel on a need to know basis—Administrative evaluation and action.

United States Department of Justice—Possible civil suits.

Other Government Agencies—Evaluation with regard to personnel clearance and suitability investigations, upon request.

Federal, state or local agencies authorized under the Civil Rights Act to redress equal opportunity complaints—Evaluation of investigations of discrimination complaints.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper files and card indices

Retrievability: By name and case number

Safeguards: Files are kept in at least key-locked cabinets, with access on a need-to-know basis. Files may be disclosed outside the agency only with the approval of the Director, Office of Audit and Inspection.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address: The Director, Office of Internal Review.

U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Address:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
University Station
Box 8213
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
133 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Full name, identity and address of employer, and dates of employment.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Information comes from ERDA and contractor records, employees of both, and other sources possessing information pertinent to an investigation.

Systems exempted from certain provisions of the act: The Administrator has exempted this system from subsections (c)(3), (d), (e)(1), (3)(4)(G)(H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552s(k) (1), (2) and (5). See ERDA rules, 10 CFR Chapter 111, Part 708.

ERDA 22

System name:

Labor Standards Complaints and Grievance Files—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069

Schenectady, New York 12301

Categories of individuals covered by the system:

Current and former contractor employees.

Categories of records in the system:

Complaints against contractors, labor unions.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

U.S. Dept. of Labor—Contract labor standards enforcement.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper

Retrievability: By individual name, by case number.

Safeguards: Locked files.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director,
Division of Labor Relations,
U.S. Energy Research and Development Administration,
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

- b. Required Identifying Information: Contractor, union, individual name and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

From contractors, public, individuals.

ERDA 23**System name:**

Legal Office—Claims, Litigations, Criminal Violations, Patents, and other Legal Files—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
Post Office Box 1069
Schenectady, New York 12301

Categories of individuals covered by the system:

ERDA related debtors and bankrupts; claimants-radiation, tort, patent; claimants with respect to employees compensation and workmen's compensation claims; radiation injury and other personal injury claims; property damage and other tort claims; patent claims and contract claims; injured parties, litigants and complaints generally; inventors; those against whom claims have been filed; persons suspected of violating criminal law.

Categories of records in the system:

Claims of government against others; Administrative claims; personal injury, radiation injury, property damage and other tort claims; contract claims, litigation records, accident reports civil litigation; addendums to inspection reports employment records consultants agreements, cases alleging discrimination, award, conflict of interest files, criminal litigation records, Personal Security Review Board cases, medical records, photographs, telephone records, investigations, government orders, inventions and correspondence and other data relating to the foregoing.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Department of Justice, GAO, state and local law enforcement agencies; civil and criminal courts, administrative arbitrators, litigants, investigators, congress, attorneys, physicians, consultants, insurance carriers—For appraisal, evaluation, settlement and denial of claims and other matters and as a basis for advice by counsel and physicians and as a basis for administrative and legal action and all matters pertaining thereto including civil and criminal remedies, law enforcement, disclosure when requesting information, and disclosure of requested information, maintenance of records.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:**Storage: Paper****Retrievability: Name and control card locator**

Safeguards: Records maintained in vault and locked safes under surveillance during business hours, otherwise locked.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The General Counsel, U.S. Energy Research and Development Administration (Headquarters), Washington, D.C. 25045 has been designated the Agency system manager for this system. The Managers and Directors of the field locations listed under Notification below are designated System Managers for their respective portions of the system.

Notification procedure:

- a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

- b. Required Identifying Information: Full name of individual;
approximate date of event, place of origin; category of
record, cognizant office

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

From individuals, inspection reports, other agencies, Office of
General Counsel attorneys and other agency officers and
staff, contractors, investigators and auditors.

Systems exempted from certain provisions of the act:

The Administrator has exempted this system from subsections
(c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a
under the Privacy Act of 1974. This exemption applies only
to information in this system of records which is exempt
pursuant to 5 U.S.C. 552a(k) (1), (2) and (5). See ERDA
rules, 10 CFR Chapter 111, Part 708.

ERDA 24**System name:**

Medical History System-ERDA and Contractor
Employees—ERDA

System location:

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Idaho Operations Office
550 Second Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

U.S. Energy Research and Development Administration
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Naval Reactors Facility
P.O. Box 2068
Idaho Falls, Idaho 83411

U.S. Energy Research and Development Administration
Bettis Atomic Power Laboratory
P.O. Box 79
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Kansas City Area Office
2006 E. Bannister, Box 202
Kansas City, Missouri 64141

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Brookhaven National Laboratory
Industrial Medicine Division
Upton, New York 11973

U.S. Energy Research and Development Administration
Dayton Area Office
Mound Laboratory, Box 66
Miamisburg, Ohio 45342

U.S. Energy Research and Development Administration
Bendix Corporation
P.O. Box 1159
Kansas City, Missouri 64141

U.S. Energy Research and Development Administration
Knolls Atomic Power Laboratory
P.O. Box 1072
Schenectady, New York 12301

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
P.O. Box 880
Morgantown, West Virginia 26505

Categories of individuals covered by the system:

Employees of ERDA and ERDA contractor personnel.

Categories of records in the system:

Medical history on employee resulting from medical examinations and radiation exposure. In case of injury, description of injury occurrence and treatment. In addition, medical records of periodic physical examinations; and psychological testing, routine first aid, and other visits.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as am(42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Physicians, U.S. Department of Labor, various state's departments of labor and industries, and contractors—to describe and record information as a result of periodic and physical examinations to ascertain suitability of an employee to a better job assignment with regard to health, and to maintain a record of occupational injuries or illnesses.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer printouts, magnetic tape, paper, microfilm.

Retrievability: By name, Social Security number, plant area.

Safeguards: Active records are maintained in locked file cabinet in a locked building. Inactive records are maintained in locked storage vault.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director,
Division of Safety, Standards and Compliance
U.S. Energy Research and Development Administration,
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
P.O. Box 880
Morgantown, West Virginia 26505

b. Required Identifying Information: Applicable location or location or locations where individual is or was employed, full name of requester, social security number, employer(s), and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters

Record source categories:

From individuals and employer payroll systems: Investigations of accidents or illnesses: From individual and his personnel and Medical records: Physician performing the examination.

ERDA 25**System name:**

Nuclear Qualification Examination Records (for personnel to be assigned to ships, shipyards and prototypes)—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

Categories of individuals covered by the system:

Candidates for positions: U.S. Naval nuclear ship commanding officers, engineering officers, Naval nuclear prototype plant managers, Naval reactors representatives, shipyard and prototype shift test engineers and operations supervisors and station operator.

Categories of records in the system:

Completed examinations and associated records necessary to locate the exams.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

DOD—Performance of regular duties.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper

Retrievability: Name and examination serial number

Safeguards: Access controlled by cognizant engineer.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Naval Reactors,
U.S. Energy Research and Development Administration,
Washington, D.C. 20545 has been designated the Agency
System Manager for this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Main Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

b. Required Identifying Information: Name, position for which examination taken and the approximate date of the exam.

Record access procedures:

Refer to Notification Procedure.

Record source categories:

From the individual to whom the records pertain.

ERDA 26**System name:**

Occupational and Industrial Health, and Safety
Records—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Amarillo Area Office
Pantex Plant
P.O. Box 1086
Amarillo, Texas 79105

U.S. Energy Research and Development Administration
Dayton Area Office
P.O. Box 66
Miamisburg, Ohio 45342

U.S. Energy Research and Development Administration
Kansas City Area Office
P.O. Box 202
Kansas City, Missouri 64141

U.S. Energy Research and Development Administration
Los Alamos Area Office
180 6th Street
Los Alamos, New Mexico 87544

U.S. Energy Research and Development Administration
Pinellas Area Office
P.O. Box 11500
St. Petersburg, Florida 33733

U.S. Energy Research and Development Administration
Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Brookhaven Office
Upton, New York 11973

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 Second Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Nevada Test Site
Mercury, Nevada 89023

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Cincinnati Area Office
P.O. Box 39158
Cincinnati, Ohio 45239

U.S. Energy Research and Development Administration

New Brunswick Laboratory
P.O. Box 150
New Brunswick, New Jersey 08903

U.S. Energy Research and Development Administration
Paducah Area Office
P.O. Box 1410
Paducah, Kentucky 42001

U.S. Energy Research and Development Administration
Portsmouth Area Office
Piketon, Ohio 45661

U.S. Energy Research and Development Administration
Puerto Rico Area Office
P.O. Box BB
San Juan, Puerto Rico 00935

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Idaho Branch Office
P.O. Box 2469
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Shippingport Branch Office
P.O. Box 11
Shippingport, Pennsylvania 15077

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

U.S. Energy Research and Development Administration
West Milton Field Office
P.O. Box 1069
Schenectady, New York 12301

U.S. Energy Research and Development Administration
Windsor Field Office
P.O. Box 393
Windsor, Connecticut 06095

U.S. Energy Research and Development Administration
Health and Safety Laboratory
376 Hudson Street
New York, New York 10014

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
P.O. Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395, University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213, University Station

Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
P.O. Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

Categories of individuals covered by the system:

ERDA employees, contractor employees, and any other persons having access to ERDA facilities.

Categories of records in the system:

Accident/incident information; occupational injury and illness experience; property damage experience; motor vehicle accidents

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Physicians—For purpose of treating patients.

Property owners and insurance companies—For purpose of processing insurance claims.

ERDA contractor safety and administrative personnel—Evaluation of safety incidents.

ERDA contractors and consultants, States' departments of labor and industries and other state agencies, U.S.

Department of Labor, National Drivers' Registry, and Department of Transportation—for purposes of processing insurance claims and accident reporting.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Magnetic tape, punch cards, paper, microfilm

Retrievability: alphabetic, numeric, or alphanumeric code Medical records and motor vehicle accident records—retrievable by name in the field organizations.

Safeguards: Locked file cabinets, locked safes, guarded areas, secured buildings.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director,
Division of Operational Safety,
U.S. Energy Research and Development Administration,
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act, Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

ERDA 27

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

- b. Required Identifying Information: Full name, social security number, and/or birth date, geographic location of the accident and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Individual concerned,
Individual's supervisor,
Medical officer—personal physician,
Accident investigator,
Investigation board,
Investigating law enforcement officer,
National Drivers Register,
Previous employer records.

System name:

Payroll and Leave—ERDA

System location:

U.S. Energy Research and Development Administration
Headquarters
Office of the Controller
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operation Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

Categories of individuals covered by the system:

ERDA Personnel and Consultants

Categories of records in the system:

Time and attendance records, consultant earning records, ERDA personnel earning records, payroll actions and deduction information, requests and authorizations for overtime/night differential, and CSC retirement records

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.) ERDA PR 9-7.5005-9 & 9-15.5010-14 (d), Title 5, 31 USC 66A, and Federal Personnel Manual supplement 296-31/293-31

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Treasury Department—Collection of withheld taxes, printing payroll checks and issuing savings bonds
 Internal Revenue Service—Federal Income Tax Processing
 State and Local Governments—State and Local Income Tax processing
 Civil Service Commission—Retirement Records and Benefits
 Social Security Administration—Social Security Records and Benefits
 Department of Labor—Processing workmen's compensation claims
 DOD-Military Retired Pay Offices—Adjusting of Military Retirement
 Savings Institutions—Crediting accounts for savings made through payroll deductions
 Employee Unions—Crediting Accounts for employees with union dues deductions
 Health Insurance Carriers—To process insurance claims
 GAO-Audit—Verification of accuracy and legality of disbursement
 Veterans' Administration—for evaluation of veteran's benefits to which the individual may be entitled.
 States' Departments of Employment Security—for determining entitlement to unemployment compensation or other State benefits.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, punched cards, magnetic tape and disk, and microfiche

Retrievability: Individual name (alphabetic), Social Security Number, chronologically, and payroll number

Safeguards:

1. Access to magnetic tapes and disk files is controlled through established ERDA computer center procedures (personnel screening and physical security).
2. Locked cabinets and desks
3. Access or need to know basis
4. Secure building
5. Safe

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Controller,
 Office of the Controller,
 U.S. Energy Research and Development Administration
 Headquarters
 Washington, D.C. 20545, has been designated the Agency System Manager for this system.
 The managers and directors of field locations listed under notification below are designated system managers for their respective portions of this system.

Notification procedure:

- a. U.S. Energy Research and Development Administration, Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
 (Headquarters)
 Washington, D.C. 20545

U.S. Energy Research and Development Administration
 Albuquerque Operations Office
 P.O. Box 5400
 Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
 Chicago Operations Office
 9800 South Cass Avenue
 Argonne, Illinois 60439

U.S. Energy Research and Development Administration
 Idaho Operations Office
 550 2nd Street
 Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
 Nevada Operations Office
 P.O. Box 14100
 Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
 Oak Ridge Operations Office
 P.O. Box E
 Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
 Richland Operations Office
 P.O. Box 550
 Richland, Washington 99352

U.S. Energy Research and Development Administration
 San Francisco Operations Office
 1333 Broadway, Wells Fargo Building
 Oakland, California 94612

U.S. Energy Research and Development Administration
 Savannah River Operations Office
 P.O. Box A
 Aiken, South Carolina 29801

- b. Required Identifying Information: Full name, social security number, location(s) of employment, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Individual; Division of Personnel; personnel certifying Time and Attendance Records

ERDA 28

System name:

Payroll and pay related data for employees of terminated contractors—ERDA

System location:

U.S. Energy Research and Development Administration
 Richland Operations Office
 P.O. Box 550
 Richland, Washington 99352

U.S. Energy Research and Development Administration
 Albuquerque Operations Office
 P.O. Box 5400
 Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
 Clinch River Breeder Reactor Plant Project
 P.O. Box U
 Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
 Oak Ridge Operations Office
 P.O. Box E
 Oak Ridge, Tennessee 37830

Categories of individuals covered by the system:

All types of former contractor employees

Categories of records in the system:

Employee payroll data from terminated contractors, employment history, job titles, complaints, salary reviews, etc.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.) PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

U.S. Department of Labor—to determine compliance with Federal labor laws.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper

Retrievability: Alphabetical by name, some by subject matter.

Safeguards: ERDA holding records area.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill as appropriate.

System manager(s) and address:

The Director, Division of Labor Relations
U.S. Energy Research and Development Administration,
Washington, D.C. 20545, has been designated the Agency
System Manager for this system. The Managers and
Directors of the field locations listed under Notification
below are designated the System Managers for their
respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

b. Required Identifying Information: Full name, location(s) of
employment, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

From ERDA contractors.

ERDA 29

System name:

Personnel Assurance Records—ERDA

System location:

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

Categories of individuals covered by the system:

Employees performing critical duties.

Categories of records in the system:

Results of medical examinations, employment review,
credit/consumer reports; and data for access authorizations
(clearances).

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended
(42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.),
PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30
U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et
seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper file manually retrieved

Retrievability: indexed by name

Safeguards: access limited to employees having need-to-know; stored in locked file cabinets in secured buildings

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Military Applications,
U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545, has been designated the Agency
System Manager for this system. The Managers and
Directors of the field locations listed under Notification
below are designated the System Managers for their
respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

b. Required Identifying Information: Full name, date of birth,
social security number, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Individual and supervisor.

ERDA 30

System name:

Personnel radiation exposure information—ERDA

System location:

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Amarillo Area Office
Pantex Plant
P.O. Box 1086

Amarillo, Texas 79105

U.S. Energy Research and Development Administration
Dayton Area Office
P.O. Box 66
Miamisburg, Ohio 45342

U.S. Energy Research and Development Administration
Kansas City Area Office
P.O. Box 202
Kansas City, Missouri 64141

U.S. Energy Research and Development Administration
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

U.S. Energy Research and Development Administration
Pinellas Area Office
P.O. Box 11500
St. Petersburg, Florida 33733

U.S. Energy Research and Development Administration
Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Brookhaven Office
Upton, New York 11973

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 Second Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Idaho Health Services Laboratory, CF-690
INEL and Computer Science Center
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P. O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P. O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Cincinnati Area Office
P. O. Box 39158
Cincinnati, Ohio 45239

U.S. Energy Research and Development Administration
New Brunswick Laboratory
P.O. Box 150
New Brunswick, New Jersey 08903

U.S. Energy Research and Development Administration
Paducah Area Office
P.O. Box 1410
Paducah, Kentucky 42001

U.S. Energy Research and Development Administration
Portsmouth Area Office
Piketon, Ohio 45661

U.S. Energy Research and Development Administration

Puerto Rico Office
P.O. Box BB
San Juan, Puerto Rico 00935

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Idaho Branch Office
P.O. Box 2469
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Shippingport Branch Office
P.O. Box 11
Shippingport, Pennsylvania 15077

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

U.S. Energy Research and Development Administration
West Milton Field Office
P. O. Box 1069
Schenectady, New York 12301

U.S. Energy Research and Development Administration
Windsor Field Office
P.O. Box 393
Windsor, Connecticut 06095

U.S. Energy Research and Development Administration
Health and Safety Laboratory
376 Hudson Street
New York, New York 10014

U.S. Energy Research and Development Administration,
Hanford Environmental Health Foundation
Kadlec Medical-Dental Building
Richland, Washington 99352

U.S. Energy Research and Development Administration
Batavia Area Office
P.O. Box 2000
Batavia, Illinois 60510

U.S. Energy Research and Development Administration
Health Physics and Safety Division
Brookhaven National Laboratory, Bldg. 535
20 N. Technology St.
Upton, New York 11973

U.S. Energy Research and Development Administration
Division of Naval Reactors
2521 Jefferson Davis Highway
Arlington, Virginia 22202

U.S. Energy Research and Development Administration
Naval Reactors Representative Office
Bldg. 178, Portsmouth Naval Shipyard, P.O. Box 2008
Portsmouth, New Hampshire 03801

U.S. Energy Research and Development Administration

Naval Reactors Representative Office
P.O. Box 21
Groton, Connecticut 06340

U.S. Energy Research and Development Administration
Naval Reactors Representative Office, P.O. Box 1687
Pascagoula, Mississippi 39567

U.S. Energy Research and Development Administration
Naval Reactors Representative Office
Newport News Shipbuilding & Dry Dock Co., P.O. Box 973
Newport News, Virginia 23607

U.S. Energy Research and Development Administration
Naval Reactors Representative Office
Charleston Naval Shipyard
Building 195
Charleston, South Carolina 29408

U.S. Energy Research and Development Administration
Naval Reactors Representative Office
Norfolk Naval Shipyard, P.O. Box 848
Portsmouth, Virginia 23705

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P. O. Box 3395, University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213, University Station
Grand Forks, North Dakota 58202

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
P. O. Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

Categories of individuals covered by the system:

ERDA personnel, contractor personnel, and any other persons having access to certain ERDA facilities.

Categories of records in the system:

ERDA and contractor personnel and other individuals' radiation exposure records; and other records in connection with the transuranic registry.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.) 83-703.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

U.S. Navy to monitor radiation exposure of Naval and other personnel at Navy activities.

NRC—To monitor radiation exposure of contractor personnel. ERDA and contractors and consultants, other contractors, and organizations where radiation exposure exceed established levels, various States' departments and labor and industries—to monitor radiation exposure of personnel.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Computer printouts, paper, index cards, magnetic tape, punched cards, microfilm

Retrievability: Name, alphabetical, numeric, alphanumeric code, chronological

Safeguards: Locked file cabinets, locked safes, guarded areas, secured buildings

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Operational Safety
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration, Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Bartlesville Energy Research Center
Box 1398
Bartlesville, Oklahoma 74003

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Grand Forks Energy Research Center
Box 8213
University Station
Grand Forks, North Dakota 58201

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82070

U.S. Energy Research and Development Administration
Morgantown Energy Research Center
Box 880
Morgantown, West Virginia 26505

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pittsburgh Energy Research Center
4800 Forbes Avenue
Pittsburgh, Pennsylvania 15213

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550

Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Geographic location of individual while employee of AEC/ERDA or name of field office/contractor, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Individual concerned, accident/incident investigation, film badges, dosimetry records, previous employee records

ERDA 31

System name:

Personnel Records of Former and Present Contractor Employees—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Climax River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

Categories of individuals covered by the system:

Former and present contractor employees.

Categories of records in the system:

Name, employment history, earnings, medical history, etc.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Fed. Agencies—Possible violations of labor statutes under their jurisdiction.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper

Retrievability: By contractor, by employees name and by subject name.

Safeguards: In locked or guarded building.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director
Division of Labor Relations
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Climax River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration

Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

b. Required Identifying Information: Full name, location of employment, and period of employment.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

From contractors.

ERDA 32

System name:

Personnel Security Clearance Files—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Welis Fargo Building
Oakland, California 94616

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
P.O. Box 1069
Schenectady, New York 12301

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

Categories of individuals covered by the system:

Employees and applicants for employment for ERDA and ERDA contractors; consultants; other individuals requiring access to classified information and facilities; access permittees who are authorized access in accordance with 10 CFR, part 95.

Categories of records in the system:

Results of investigations concerning individuals processed for access authorizations (clearances).

Authority for maintenance of the system:

Public Law 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Civil Service Commission,

Defense Investigative Service,

Department of Defense,

Department of State, Nuclear Regulatory Commission, Central Intelligence Agency,

Federal Bureau of Investigation, and

U.S. Postal Inspectors

To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

Joint Committee on Atomic Energy—Employment purposes.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file, manually retrieved; also, maintained at Albuquerque on computer printouts, magnetic tapes and punch cards.

Retrievability: Indexed by name and numerical file.

Safeguards: Access limited to employees having need-to-know; stored in repository under either guard or alarm protection.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Safeguards and Security
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street

Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

b. Required Identifying Information: Full name, date of birth, social security number, clearance processing location, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Personnel Security Questionnaire and fingerprint card executed by individual; background investigation reports by Federal Bureau of Investigation, Civil Service Commission and other Government agencies conducting background investigations; summaries and transcripts of interviews with the individual; interrogatory letters to the individual; local police departments reports; and, security infraction reports received from the individual's supervisor.

Systems exempted from certain provisions of the act:

The Administrator has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5). See ERDA rules, 10 CFR Chapter 111, Part 708.

ERDA 33

System name:

Personnel Security Clearance Index—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue

Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

Categories of individuals covered by the system:

Energy Research and Development Administration employees and Energy Research and Development Administration contractor employees and access permittees for whom access authorizations, clearances, have been initiated, granted and/or terminated.

Categories of records in the system:

Records identifying history and status of processed access authorizations (clearances).

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

ERDA Contractor employees—Security and Administration—Performance of regular duties;

Federal law enforcement, intelligence and investigative agencies and other Federal agencies possessing classified information—To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to the appropriate agency, whether federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file retrieved manually; also maintained on data cells, magnetic tape, punch cards and disc packs retrieved automatically.

Retrievability: Indexed by name, and access authorization (clearance) number.

Safeguards: Access limited to employees having need-to-know; stored in secured building subject to guard patrols and/or alarm protection.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Safeguards and Security
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Indicate full name, date of birth, social security number and dates of employment.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters

Record source categories:

Personnel Security Questionnaire and fingerprint card executed by individual and records of Energy Research and Development Administration Personnel Security Offices.

Systems exempted from certain provisions of the act:

The Administrator has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5). See ERDA rules, 10 CFR Chapter 111, Part 708.

ERDA 35

System name:

Security Education and/or Infraction Reports—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Division of Safeguards and Security
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration

Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Amarillo Area Office
Pantex Plant, P.O. Box 1086
Amarillo, Texas 79105

U.S. Energy Research and Development Administration
Dayton Area Office
P.O. Box 66
Miamisburg, Ohio 45342

U.S. Energy Research and Development Administration
Kansas City Area Office
P.O. Box 202
Kansas City, Missouri 64141

U.S. Energy Research and Development Administration
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

U.S. Energy Research and Development Administration
Pinellas Area Office
P.O. Box 11500
St. Petersburg, Florida 33733

U.S. Energy Research and Development Administration
Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401

U.S. Energy Research and Development Administration
Sandia Area Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

Categories of individuals covered by the system:

Energy Research and Development Administration and Energy Research and Development Administration contractor employees having access authorization (clearance) to classify information and/or materials.

Categories of records in the system:

Records of security education lectures and investigative and summary reports of security infraction incidents.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file retrieved manually

Retrievability: Chronologically and by name

Safeguards: Access limited to employees with need-to-know; stored in security areas

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Safeguards and Security
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency
System Manager for this system. The Managers and
Directors of the field locations listed under Notification
below are designated the System Managers for their
respective portion of this system.

Notification procedure:

- a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

- b. Required Identifying Information: Full name, date of birth,
social security number, employment date and location.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Records from training officer; investigative reports from
Security personnel and employee supervisor; and Local,
State and Federal authorities.

ERDA 36**System name:**

Special Access Authorization for Categories of Classified
Information—ERDA

System location:

U.S. Energy Research and Development Administration
Division of Safeguards and Security
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Amarillo Area Office
Pantex Plant, P.O. Box 1086
Amarillo, Texas 79105

U.S. Energy Research and Development Administration
Dayton Area Office
P.O. Box 66
Miamisburg, Ohio 45342

U.S. Energy Research and Development Administration
Kansas City Area Office
P.O. Box 202
Kansas City, Missouri 64141

U.S. Energy Research and Development Administration
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E, Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Pinellas Area Office
P.O. Box 11500
St. Petersburg, Florida 33733

U.S. Energy Research and Development Administration
Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Sandia Area Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

Categories of individuals covered by the system:

Individuals authorized access to special categories of
information and compartmentalized Energy Research and
Development Administration facilities and/or areas.

Categories of records in the system:

Letters and memoranda of authorization to special categories
of classified information.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended
(42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.),
PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30
U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et
seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.)

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

ERDA contractors—For purposes of performing contractual functions.

"NATO, National Security Agency, and CIA—for determining individuals who have access to classified information generated by these agencies."

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: paper file; also magnetic tape at Headquarters.

Retrievability: indexed by name.

Safeguards: access limited to employees with need-to-know; stored in security areas under either guard or alarm protection.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Safeguards and Security
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Laramie Energy Research Center
P.O. Box 3395
University Station
Laramie, Wyoming 82071

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Full name, date of birth, where employed, clearance processing location, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Requests for access from sponsoring work unit initiated by individual and supervisor.

Systems exempted from certain provisions of the act:

The Administrator has exempted this system from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), (I), and (f) of 5 U.S.C. 552a under the Privacy Act of 1974. This exemption applies only to information in this system of records which is exempt pursuant to 5 U.S.C. 552a(k) (1), (2) and (5). See ERDA rules, 10 CFR Chapter 111, Part 708.

ERDA 37

System name:

Statistical Analysis Using Personnel Security Questionnaire (Mancuso Study)—ERDA

System location:

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee, 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

Categories of individuals covered by the system:

Energy Research and Development Administration employees, consultants and contractor employees and consultants who were granted Energy Research and Development Administration access authorizations (clearances); and employees of Manhattan Engineering District Project.

Categories of records in the system:

Records of employees of the Manhattan Engineering District Project; and, copies of Personnel Security Questionnaires after termination of employment.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

Mancuso Study—Statistical Analyses using Personnel Security Questionnaires

Federal law enforcement and investigative agencies—To refer, where there is an indication of a violation or potential violation of law, whether civil, criminal or regulatory in nature, to the appropriate agency, whether Federal, state or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file retrieved manually.

Retrievability: Indexed by name.

Safeguards: Maintained in guarded security areas in locked file cabinets; access limited to individuals having a need-to-know.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Biomedical and Environmental Research
U.S. Energy Research and Development Administration

Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration, Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

b. Required Identifying Information: Full name and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Clearance history of Manhattan Engineering District employees, access permittees payments for security clearances; and, reports from investigative agencies.

ERDA 38

System name:

Employee and Visitor Access Control Record—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Amarillo Area Office
Pantex Plant, P.O. Box 1086
Amarillo, Texas 79105

U.S. Energy Research and Development Administration
Dayton Area Office
P.O. Box 66
Miamisburg, Ohio 45342

U.S. Energy Research and Development Administration
Kansas City Area Office
P.O. Box 202
Kansas City, Missouri 64141

U.S. Energy Research and Development Administration
Los Alamos Area Office
528 35th Street
Los Alamos, New Mexico 87544

U.S. Energy Research and Development Administration
Pinellas Area Office
P.O. Box 11500
St. Petersburg, Florida 33733

U.S. Energy Research and Development Administration

Rocky Flats Area Office
P.O. Box 928
Golden, Colorado 80401

U.S. Energy Research and Development Administration
Sandia Area Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Savannah River Operations Office,
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

Categories of individuals covered by the system:

Individuals visiting Energy Research and Development Administration field offices, area offices and contractor facilities. ERDA employees seeking access to ERDA facilities and classified records.

Categories of records in the system:

Records of individuals visiting Energy Research and Development Administration and employee identification files including photographs maintained for access purposes.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

ERDA contractors—Control access to classified information and areas

Department of Defense Contractors—Authorize access to classified information and areas.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper file, photo file, and microfiche retrieved manually.

Retrievability: Indexed chronologically and by name.

Safeguards: Access limited to employees with need-to-know; stored in guarded security areas.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Safeguards and Security
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification

below are designated the System Managers for their respective portions of this system.

Notification procedure:

- a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

- b. Required Identifying Information: Name, social security number, date of birth, clearance processing location, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Department of Defense, individual; Energy Research and Development Administration offices and contractors; National Aeronautics and Space Administration; and other Government agencies.

ERDA 39

System name:

Weapon Data and Weapons Program Facilities—Access to—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration

Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
San Francisco Operation Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

Categories of individuals covered by the system:

Employees of ERDA, DOD, and other Government agencies, and their contractors and consultants requiring access to weapon data and/or ERDA nuclear weapons program facilities.

Categories of records in the system:

Name, rank, Social Security Number, date of birth, citizenship, employer, type of clearance, number and date of clearance, categories of information requested and authorized, locations to be visited and dates of visit.

Authority for maintenance of the system:

PUB. L. 93-438 (42 U.S.C. 5814), PUB. L. 83-703 as amended (42 U.S.C. 2201), PUB. L. 93-409 (42 U.S.C. 5501 et seq.), PUB. L. 93-473 (42 U.S.C. 5551 et seq.), PUB. L. 93-410 (30 U.S.C. 1101 et seq.), PUB. L. 93-577 (42 U.S.C. 5901 et seq.), PUB. L. 86-599 (30 U.S.C. 661 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

DOD and DOD contractors, C.I.A., N.S.C., O.M.B., Executive Office of the President, N.A.S.A., N.R.C., Congress, State Department—for ERDA to maintain list of personnel authorized by ERDA to have access to nuclear weapon data and weapons facilities, and to provide clearance information on ERDA and ERDA contractors to other agencies. Other agencies have access to this system to determine whether ERDA or ERDA contractor personnel have appropriate clearances for access to their facilities.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Microfiche and paper files

Retrievability: Alphabetic by name, purpose, and facility to be visited

Safeguards: Maintained in buildings with controlled access

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Division of Military Application
U.S. Energy Research and Development Administration
Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under Notification below are designated the System Managers for their respective portions of this system.

Notification procedure:

- a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Full name and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

From individual, Government agencies, employers

ERDA 40

System name:

Nationwide Traineeship Reporting System—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

Categories of individuals covered by the system:

College graduate students participating in the ERDA sponsored traineeship/laboratory graduate program.

Categories of records in the system:

Academic background, employment history, traineeship area of study, and mailing/permanent addresses.

Authority for maintenance of the system:

Pub. L. 93-438 (42 U.S.C. 5814), Pub. L. 83-703 as amended (42 U.S.C. 2201), Pub. L. 93-409 (42 U.S.C. 5501 et seq.), Pub. L. 93-473 (42 U.S.C. 5551 et seq.), Pub. L. 93-410 (30 U.S.C. 1101 et seq.), Pub. L. 93-577 (42 U.S.C. 5901 et seq.), Pub. L. 86-599 (30 U.S.C. 661 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

University traineeship advisors—Compliance with contract terms covering traineeship administration functions;
Contractor officials—For possible employment selection/notification.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, punched cards, and magnetic tape.

Retrievability: Individual name, institution, laboratory, traineeship program class, and traineeship identification number.

Safeguards: Access to magnetic tapes is controlled through established ERDA computer center procedures (personnel screening and physical security); access on need to know basis; and secure building.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Director, Office of University Programs, U.S. Energy Research and Development Administration (Headquarters), Washington, D.C. 20545, has been designated the Agency System Manager for this system. "The Managers and Directors of the field locations listed under Notification have been designated the System Managers for their respective portions of this system."

Notification procedure:

a. U.S. Energy Research and Development Administration,
Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

b. Required Identifying Information: Full name, social security number, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

University traineeship advisors.

ERDA 41

System name:

Travel Files—ERDA

System location:

U.S. Energy Research and Development Administration
(Headquarters)
Office of the Controller
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Schenectady Naval Reactors Office
Schenectady, New York 12301

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

U.S. Energy Research and Development Administration
Grand Junction Office
P.O. Box 2567
Grand Junction, Colorado 81501

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Pittsburgh Naval Reactors Office
P.O. Box 109
West Mifflin, Pennsylvania 15122

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100
Las Vegas, Nevada 89114

Categories of individuals covered by the system:

ERDA Personnel, Interviewers, Invitational Travelers (other federal agencies and Congress).

Categories of records in the system:

Travel vouchers, authorizations, advance payment records, foreign travel requests and approvals, related correspondence, and real estate transaction documents.

Authority for maintenance of the system:

Pub. L. 93-438 (42 U.S.C. 5814), Pub. L. 83-703 as amended (42 U.S.C. 2201), Pub. L. 93-409 (42 U.S.C. 5501 et seq.), Pub. L. 93-473 (42 U.S.C. 5551 et seq.), Pub. L. 93-410 (30 U.S.C. 1101 et seq.), Pub. L. 93-577 (42 U.S.C. 5901 et seq.), Pub. L. 86-599 (30 U.S.C. 661 et seq.).

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

GAO Audit and Verification of accuracy and legality of disbursements. Treasury Department—Production of checks for travel advances and payments. IRS—Taxable travel reimbursements.

For additional routine uses see Appendix AA.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage: Paper, punched cards, magnetic tape and disk, and microfiche.

Retrievability: Individual Name (alphabetic) and chronologically.

Safeguards: Access to magnetic tapes and disk files is controlled through established ERDA computer center procedures (personnel screening and physical security); locked cabinets and desks; access on need to know basis; and secure building.

Retention and disposal: Records retention and disposal authorities are contained in ERDA, Manual Appendix 0230, "Records Disposition." Records within the ERDA are destroyed by shredding, burning, or burial in a sanitary landfill, as appropriate.

System manager(s) and address:

The Controller, Office of the Controller, U.S. Energy Research and Development Administration (Headquarters), Washington, D.C. 20545, has been designated the Agency System Manager for this system. The Managers and Directors of the field locations listed under notification have been designated System Manager for their respective portions of this system.

Notification procedure:

a. U.S. Energy Research and Development Administration, Privacy Act Administration Officer's Mail Addresses:

U.S. Energy Research and Development Administration
(Headquarters)
Washington, D.C. 20545

U.S. Energy Research and Development Administration
Albuquerque Operations Office
P.O. Box 5400
Albuquerque, New Mexico 87115

U.S. Energy Research and Development Administration
Chicago Operations Office
9800 South Cass Avenue
Argonne, Illinois 60439

U.S. Energy Research and Development Administration
Clinch River Breeder Reactor Plant Project
P.O. Box U
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Idaho Operations Office
550 2nd Street
Idaho Falls, Idaho 83401

U.S. Energy Research and Development Administration
Nevada Operations Office
P.O. Box 14100

Las Vegas, Nevada 89114

U.S. Energy Research and Development Administration
Oak Ridge Operations Office
P.O. Box E
Oak Ridge, Tennessee 37830

U.S. Energy Research and Development Administration
Richland Operations Office
P.O. Box 550
Richland, Washington 99352

U.S. Energy Research and Development Administration
San Francisco Operations Office
1333 Broadway, Wells Fargo Building
Oakland, California 94612

U.S. Energy Research and Development Administration
Savannah River Operations Office
P.O. Box A
Aiken, South Carolina 29801

b. Required Identifying Information: Full name, social security number, and location of employment, and time period.

Record access procedures:

Refer to Notification Procedure.

Contesting record procedures:

Refer to Headquarters.

Record source categories:

Individual and ERDA approval officials.

APPENDIX AA

Additional Routine Uses

The following routine uses apply to and are incorporated by reference into each system of records as stated therein:

1. In the event that a record within this system of records maintained by this agency indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program pursuant thereto, the relevant records in the system of records may be referred as a routine use to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

2. A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, if necessary to obtain information relevant to an Agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

3. A record from this system of records may be disclosed, as a routine use, to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. A record from this system of records may be disclosed, as a routine use, in response to a court subpoena, to appropriate parties engaged in litigation or in preparation of possible litigation such as potential witnesses for the purpose of securing their testimony when necessary to courts, magistrates or administrative tribunals, to parties and their attorneys for the purpose of proceeding with litigation or settlement of disputes, to individuals seeking information by using established discovery procedures, whether in connection with civil, criminal, or regulatory proceedings.

5. A record maintained by this agency to carry out its functions which relates to civil and criminal proceedings may be disclosed to the news media in accordance with guidelines contained in Department of Justice regulations 28 C.F.R. 50.2.

6. A record maintained by this agency to carry out its functions may be disclosed to foreign governments in accordance with treaty obligations.

7. A record from this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation as set forth in OMB Circular No. A-19 at

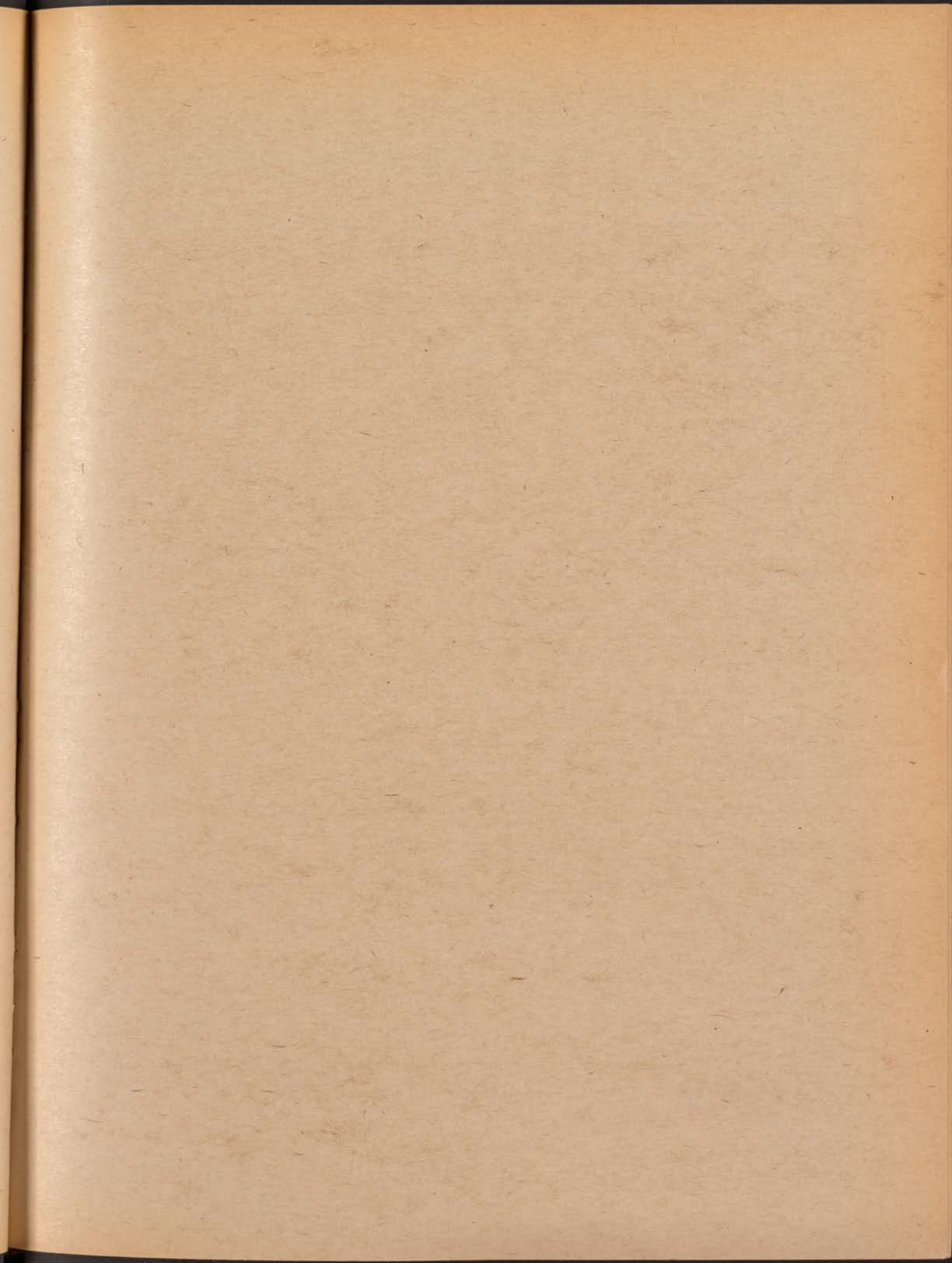
any stage of the legislative coordination and clearance process as set forth in that Circular.

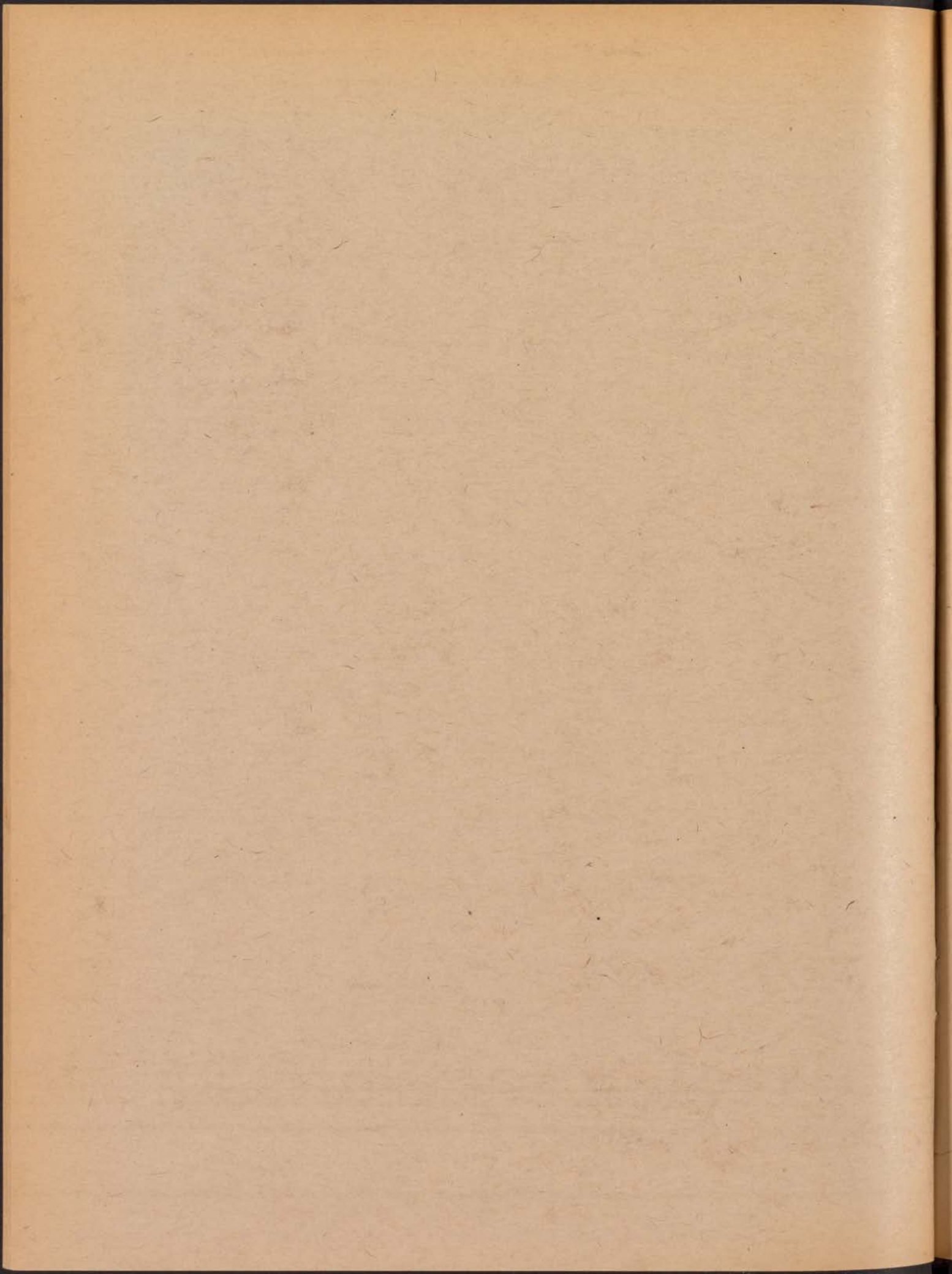
8. A record from this system of records may be disclosed, as a routine use, to ERDA contractors in performance of their contracts, and their officers and employees who have a need for the record in the performance of their duties subject to the same limita-

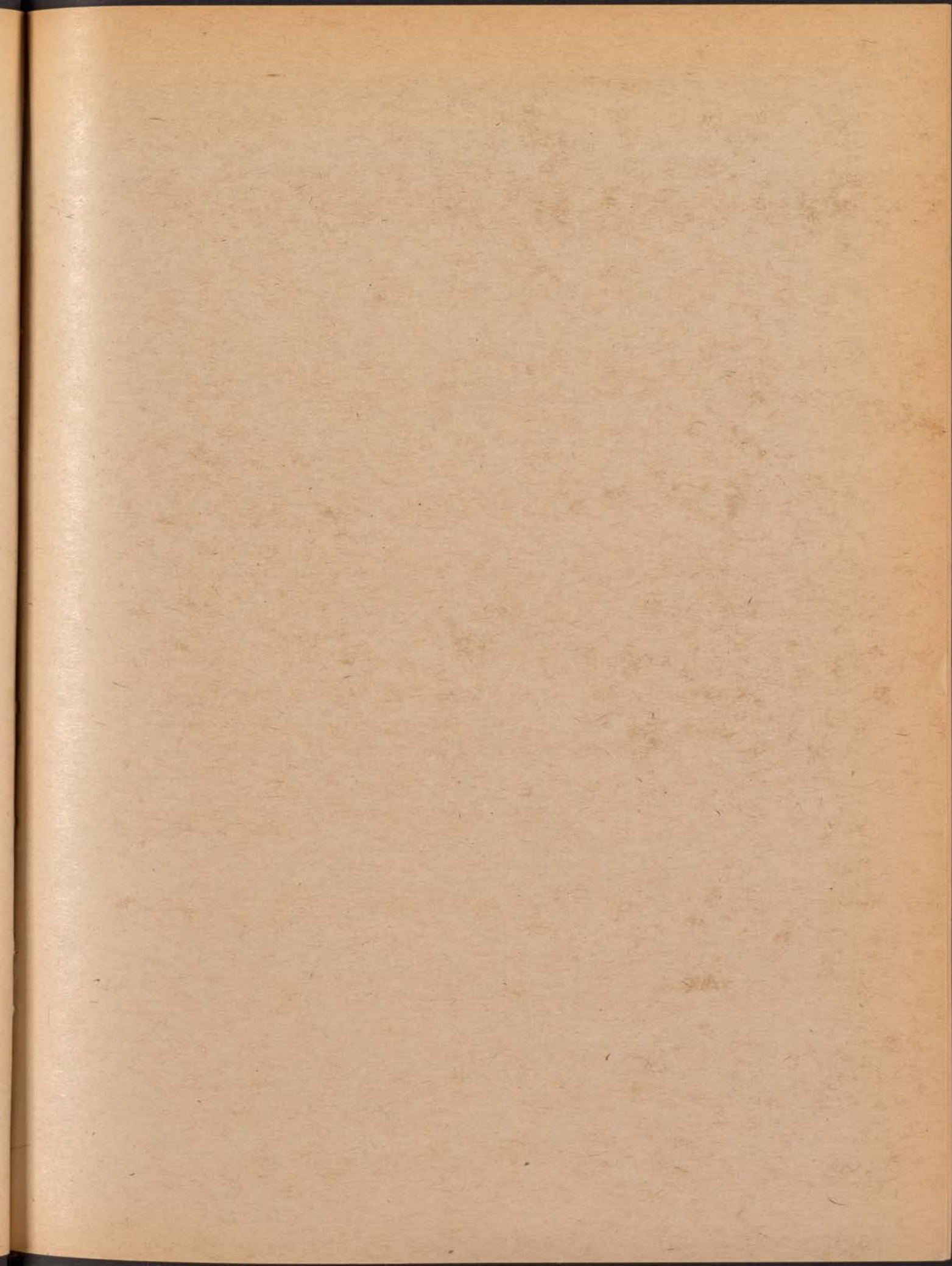
tions applicable to ERDA officers and employees under the Privacy Act.

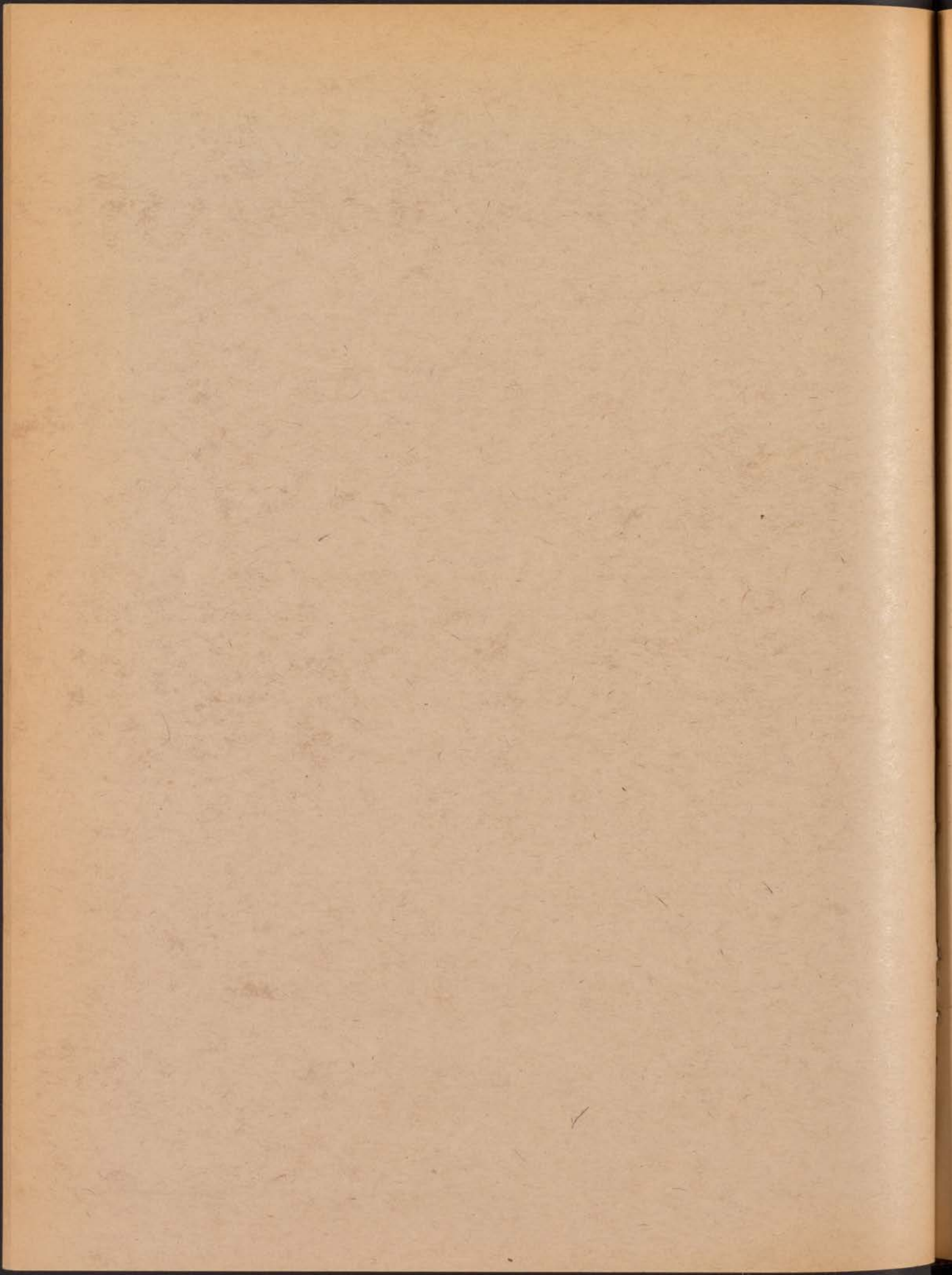
9. Congressional Inquiries—disclosure may be made to congressional office from the record of an individual in response to inquiries from the congressional office made at the request of that individual.

[FR Doc.76-31267 Filed 10-20-76; 2:58 pm]









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